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Manual of the

BOARD OF HEALTH

DAYTON, OHIO

Statutes of Ohio, Ordinances and Regulations concerning Matters of Health of the City of Dayton, Ohio, together with Annotations; also Rules governing the Board of Health and the Sanitary Police.

IN FORCE DECEMBER 1, 1909

Compiled and Arranged by
HOWARD B. CROMER. B.A., LL.B.
JOHN B. HARSHMAN, B.A., LL.B.
Attorneys-at-Law

By Authority of
THE BOARD OF HEALTH
DAYTON, OHIO

Dayton, Ohio
The Otterbein Press
1909

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PREFACE

It is the aim of this volume to contain all of the Statutes of Ohio, the General Ordinances of the City of Dayton and the Regulations of local Board of Health which relate to matters of health, together with the decisions bearing thereon, properly annotated.

The material is arranged under three general heads: First, Statutes of Ohio; second, General Health Ordinances; third, Regulations of the Board of Health. These parts are subdivided into "Divisions," numbered successively from 1 to 27.

The ordinances of the City of Dayton have never been codified, and no authority has been given us to codify, hence the classification and arrangement may not meet with universal approval; but nothing more than an arbitrary juxtaposition arrangement has been attempted. To overcome any possible disadvantages in arrangement a special effort has been made to properly index the work.

It is the only hope of the compilers that this little manual will prove helpful to those who may have occasion to consult it.

HOWARD B. CROMER.
JOHN B. HARSHMAN.

Dayton, Ohio, December 1, 1909.

BODIES PASSING HEALTH LEGISLATION IN THE CITY OF DAYTON

1. Prior to January 22, 1899, a board of health existed.
2. From January 22, 1899, to January 15, 1906, the Board of Public Service acted as a board of health.
3. January 15, 1906, to November 9, 1907, the City Council acted as a board of health.
4. November 9, 1907, to present date, present Board of Health has acted.

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PART I.

STATUTES OF OHIO RELATIVE TO MATTERS OF HEALTH

DIVISION 1.

STATE BOARD OF HEALTH.

The sections of the statutes creating the State Board of Health were rearranged by the Ohio Codifying Commission and passed by the General Assembly, May 9, 1908.

Section 1. [How constituted and appointed.] There shall be a state board of health, consisting of eight members, seven of whom shall be appointed by the governor. Each year the governor, with the advice and consent of the senate, shall appoint a member of the board, who shall serve for a term of seven years from the thirteenth day of December. The attorney-general shall be ex-officio a member of the board. [83 v. 77 § 1; O. L., v. 99, p. 492.]

Sec. 2. [Meetings; quorum; officers; rules and by-laws.] The state board of health shall meet in Columbus during the month of January of each year, and at such other times as it may direct. A majority of its members shall constitute a quorum. The board shall choose one of its members as president, and, subject to the provisions of this act, may adopt rules and by-laws for its government. [94 v. 46, § 6; O. L., v. 99, p. 493.]

Sec. 3. [Secretary; how removed; expenses; how paid.] The state board of health shall elect a secretary who shall perform the duties prescribed by the board and the provisions of this act. He may be removed from office for

cause by the vote of a majority of the members of the board. The necessary traveling and other expenses incurred by the secretary in the performance of his official duties shall be paid by the state on the warrant of the auditor of state upon the certificate of the president of the board. [90 v. 95, § 7; O. L., v. 99, p. 493.]

Sec. 4. [Per diem and expenses of members; how paid.] Each member of the state board of health shall receive five dollars for each day employed in the discharge of his official duties, and his necessary traveling and other expenses while engaged in the business of the board. The president of the board shall certify the amount of compensation and expenses due each member, and on presentation of a certificate therefor the auditor of state shall draw his warrant on the treasurer of state for the amount certified. [90 v. 95, § 7; O. L., v. 99, p. 493.]

Sec. 5. [Offices.] Suitable rooms for the meetings of the state board of health and the office of its secretary shall be provided by the state. [83 v. 79, § 10; O. L., v. 99, p. 493.]

Sec. 6. [General powers and duties; may adopt rules and regulations.] The state board of health shall have supervision of all matters relating to the preservation of the life and health of the people, and have supreme authority in matters of quarantine, which it may declare and enforce, when none exists, and modify, relax or abolish, when it has been established. It may make special or standing orders or regulations for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of deceased persons, and for such other sanitary matters as it deems best to control by a general rule. It may make and enforce orders in local matters when emergency exists, or when the local board of health has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by law. In such cases the necessary expense in-

curred shall be paid by the city, village or township for which the services are rendered. [90 v. 94, § 2; O. L., v. 99, p. 493.]

Sec. 7. [Duty of certain officers to enforce rules and regulations.] Local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables and other officers and employes of the state or any county, city or township, shall enforce the quarantine and sanitary rules and regulations adopted by the state board of health. [90 v. 94, § 2; O. L., v. 99, p. 493.]

Sec. 8. [Shall make investigations and reports on local conditions.] The state board of health shall make careful inquiry as to the cause of disease, especially when contagious, infectious, epidemic or endemic, and take prompt action to control and suppress it. The reports of births and deaths, the sanitary conditions and effects of localities and employments, the personal and business habits of the people and the relation of the diseases of man and beast, shall be subjects of careful study by the board. It may make and execute orders necessary to protect the people against diseases of lower animals, and shall collect and preserve information in respect to such matters and kindred subjects as may be useful in the discharge of its duties, and for dissemination among the people. When called upon by the state or local governments, or municipal or township boards of health it shall promptly investigate and report upon the water supply, sewerage, disposal of excreta of any locality and the heating, plumbing and ventilation of a public building. [90 v. 94, § 2; O. L., v. 99, p. 494.]

Sec. 9. [Jurisdiction over water supplies, sewerage, garbage disposal, and manufacturing plants; penalty.] No city, village, public institution, corporation or person shall provide or install for public use, a water supply or sewerage system, or purification works for a water supply or sewage, of a municipal corporation or public institution, or make a

change in the water supply, water works intake, water purification works of a municipal corporation or public institution, until the plans therefor have been submitted to and approved by the state board of health. No city, village, corporation or person shall establish a garbage disposal or manufacturing plant having a liquid waste which may enter any stream within twenty miles above the intake of a public water supply until the location of such garbage or manufacturing plant, including plans for disposing of such liquid waste, is approved by the state board of health. Whoever violates any provision of this section shall be fined not less than one hundred nor more than five hundred dollars. [90 v. 94, § 2; O. L., v. 99, p. 494.]

Sec. 10. [Vital statistics.] The state board of health shall have supervision of the state system of registration of births and deaths. It shall prescribe such forms consistent with the provisions of law, for their collection and registration as it deems necessary, and furnish copies of such forms to the auditor and probate judge of each county. It shall recommend such legislation as it deems necessary for the thorough registration of vital and mortality statistics throughout the state. The secretary of the board shall be the superintendent of such registration. [93 v. 259, § 3; O. L., v. 99, p. 494.]

Sec. 11. [Laboratory; to report on public water supplies.] The state board of health may establish and maintain a chemical and bacteriological laboratory for the examination of public water supplies, and the effluent of sewage purification works, for the diagnosis of diphtheria, typhoid fever, hydrophobia, glanders and such other diseases as it deems necessary, and for the examination of food suspected to be the cause of disease. The board shall examine and report each year the condition of all public water supplies. [93 v. 259, §3; O. L., v. 99, p. 494.]

Sec. 12. [Laboratory assistance.] The secretary of the state board of health shall have charge of the laboratory authorized by the next preceding section. The board may

employ an assistant for the laboratory who shall be a person skilled in chemistry and bacteriology, and receive for his services such compensation as the board may allow. All expenses of such laboratory shall be paid from appropriations made for the board. [93 v. 259, § 3; O. L., v. 99, p. 495.]

Sec. 13. [Boards of health, etc., to report contagious diseases.] Boards of health, health authorities or officials, and physicians in localities where there are no health authorities or officials, shall report to the state board of health promptly upon the discovery thereof, the existence of any one of the following diseases: Asiatic cholera, yellow fever, smallpox, scarlet fever, diphtheria, membranous croup, typhus or typhoid fever, and such other contagious or infectious diseases as the state board specifies. [R. S. Sec. 409-28; O. L., v. 99, p. 495.]

Sec. 14. [May assume charge in epidemic.] When a contagious or infectious disease becomes or threatens to become epidemic in a city, village or township, and the local authorities neglect or refuse to enforce efficient measures for its prevention, the state board of health or its secretary, on the order of its president, may appoint a medical or sanitary officer and such assistants as he may require, and authorize him to enforce such orders or regulations as the board or its secretary deems necessary. [R. S. Sec. 409-28; O. L., v. 99, p. 495.]

Sec. 15. [Annual conferences with local boards; expenses of delegates.] The state board of health may make provision for annual conferences of health officers and representatives of local boards of health for the consideration of the cause and prevention of dangerous communicable diseases and other measures to protect and improve the public health. Each board of health or other body or person appointed or acting in the place of a board of health shall appoint a delegate to such annual conferences. The city, village or township shall pay the necessary expenses of such delegate upon the presentation of a certificate from

the secretary of the state board that the delegate attended the sessions of such conferences. [98 v. 205; O. L., v. 99, p. 495.]

Sec. 16. [Conferences; how divided.] The state board of health may provide for one annual conference of representatives of city boards of health, another for representatives of village boards of health, and one or more for representatives of township boards of health, or make such other division of conferences as it deems best. No conference shall continue in session longer than three consecutive days, and no board of health shall be required or authorized to send a delegate to more than one conference in any year. [98 v. 205; O. L., v. 99, p. 495.]

Sec. 17. [Prosecutions; how brought; procedure; disposition of fines or judgments.] All prosecutions and proceedings by the state board of health for the violation of any provision herein relating to such board or other laws which the board is required to enforce, or for the violation of any of the orders or regulations of the board, shall be instituted by its secretary on the order of the president of the board. The laws prescribing the modes of procedure, courts, practice, penalties or judgments applicable to local boards of health, shall apply to the state board of health and the violation of its laws and orders. All fines or judgments collected by the board shall be paid into the state treasury. [R. S. Sec. 409-29; O. L., v. 99, p. 495.]

Sec. 18. [Annual reports.] Each year, the state board of health shall make a report to the governor, which must include so much of the proceedings of the board, such information concerning vital statistics and diseases, such instructions on the subject of hygiene for dissemination among the people and such suggestions as to legislation as it deems proper. The board shall include in its annual report a full statement of all examinations made in its chemical and bacteriological laboratory, with a detailed account of all expenses so incurred. [R. S. Sec. 409-32; O. L., v. 99, p. 496.]

DIVISION 2.

PROTECTION OF WATER SUPPLIES.

An act to authorize the State Board of Health to require the purification of sewage and public water supplies and to protect streams against pollution.

[Passed April 7, 1908.]

Sec. 1. **[Pollution of streams, etc.; complaints; how made; investigation; action to be taken by board; cities and villages on Ohio river excepted.]** Whenever the council, or board of health of any city or village, or the commissioners of any county, or the trustees of any township make complaint in writing to the state board of health, setting forth that a city, or village or corporation or person is discharging or permitting to be discharged any sewage or other wastes into any stream, water course, lake or pond and is thereby creating a public nuisance detrimental to health or comfort, or is polluting the source of any public water supply, it shall be the duty of the state board of health to forthwith inquire into and investigate the conditions complained of; and whenever the state board of health finds after investigation that the source of public water supply of any city, village or community in this state is being subject to contamination or has been rendered impure by reason of the discharge of sewage or other wastes, or in any other manner by any city, village, corporation or person; or whenever said board finds that such sewage or other wastes have so corrupted any stream, water course, lake or pond as to give rise to foul and noxious odors, or to conditions detrimental to the health or comfort of those residing in the vicinity of such stream, water course, lake or pond, it shall notify such city, village, corporation or person causing the contamination or pollution of any such stream, water course, lake or pond of its findings and give them an opportunity to be heard, and after such hearing

if the state board of health determines that improvements or changes are necessary and should be made, it shall report its finding to the governor and attorney general, and upon their approval said board shall notify such city, village, corporation or person to install such works or means satisfactory to said board, for purifying or otherwise disposing of its sewage or other wastes, or to change or enlarge existing works in a manner to be satisfactory to said board; such works or means must be completed and put into operation within a time to be fixed by said board, which time shall be subject to the approval of the governor and attorney general. Provided that no city or village that is now discharging sewage into any river which separates the state of Ohio from another state shall be required to install sewage purification works as long as the unpurified sewage of cities or villages in any other state is discharged into said river above said Ohio city or village. [O. L. v. 99, p. 74.]

Sec. 2. [Water supply; complaints in regard to; how made; investigation and action by board.] Whenever the board of health or health officer of any city or village, or ten per cent. of the electors thereof file with the state board of health a complaint in writing, setting forth that it is believed that the public water supply of such city or village is impure and dangerous to health, it shall be the duty of the state board of health to forthwith inquire into and investigate the conditions complained of; and whenever the state board of health finds after investigation, that the public water supply of any city or village is impure and dangerous to health and that it is not practicable to sufficiently improve the character of such supply by removing the source or sources of pollution affecting it, or if said board finds that such water supply is being rendered impure by reason of improper construction or inadequate size of existing water purification works, it shall notify such city, village, corporation or person owning or operating such water supply of its findings and give them an opportunity to be heard, and after such hearing if the state board of

health determines that improvements or changes are necessary and should be made, it shall report its findings to the governor and attorney general, and upon their approval said board shall notify such city, village, corporation or person owning or operating such water supply to change the source of supply or to install and place in operation water purification works or device satisfactory to said board, or to change or enlarge existing water purification works in a manner satisfactory to said board, within a time to be fixed by said board, which time shall be subject to the approval of the governor and attorney general. [O. L. v. 99, p. 75.]

Sec. 3. **[Water and sewage purification works; board may issue orders to secure better results.]** Whenever the state board of health finds, upon investigation, that any water or sewage purification works, on account of incompetent supervision or inefficient operation, is not producing an effluent as pure as might reasonably be obtained from such plant, and by reason of which any public water supply has become dangerous to health, or any stream or body of water has become offensively polluted, or has become a public nuisance, said board shall issue an order to the office, board or department of any city or village, or the corporation or person having charge of or owning such plant, to secure an effluent as pure as might be reasonably expected from such plant and satisfactory to said board; and if such officer, board or department of any city or village, or such corporation or person fails, for a period of five days after receiving such order, to secure such an effluent, the state board of health shall report the fact to the governor and attorney general and upon their approval may order such officer, board or department, or owner of such plant, to appoint within ten days, and pay the salary of, a competent person, to be approved by said state board of health to take charge of and operate such works so as to secure the results demanded by the state board of health. [O. L., v. 99, p. 76.]

Sec. 4. **[In case of disagreement may submit question to sanitary engineers; powers of referees; expenses and fees;**

how paid.] If in any case any order of the state board of health, when approved by the governor and attorney general, and made in pursuance to the provisions of this act, is not acceptable to any city, village, corporation or owner affected thereby, such city, village, corporation or owner shall have the right of appeal as follows, to-wit: The necessity for and reasonableness of such order may be submitted to two reputable and experienced sanitary engineers, one to be chosen by the city, village, corporation or owner to which such order of the state board of health applies and the other chosen by the state board of health, who shall not be regularly employed by said board, and who shall act as referee engineers. If the engineers so chosen are unable to agree, then they shall choose a third engineer of like standing, and the vote of the majority shall be final and binding. The referee engineers, herein provided for, shall have power to affirm, modify, or reject, the order of the state board of health submitted to them, and their decision, as reported in writing to the governor and attorney general, which shall be rendered within a reasonable time, shall be accepted by the state board of health, and shall be enforced by said board in the manner provided for in this act. The fees and expenses of said referee engineers shall be equally divided between the city, village, corporation or owner requesting such reference and the state board of health. [O. L. v. 99, p. 76.]

Sec. 5. [Revenues; how raised; and expended.] It shall be the duty of every such municipal council, department or officer having jurisdiction to provide for the raising of revenues by tax levies, sale of bonds, or otherwise to take all steps necessary to secure the funds for any such purpose or purposes; and when so secured, or the bonds thereof have been authorized by the proper municipal authority, the same shall be considered as in the treasury and appropriated for such particular purpose or purposes, and cannot be used for any other purpose; provided, that the bonds herein authorized to be issued for the purposes enumerated

in this act shall not exceed five per cent. of the total value of all property in any city or village, as listed and assessed for taxation, which may be in addition to the total bonded indebtedness allowable under the provisions of section two thousand eight hundred and thirty-five of the Revised Statutes, but the question of the issuance of such bonds shall not be required to be submitted to a vote. [O. L., v. 99, p. 77.]

Sec. 6. [Penalty; power of governor and attorney general to remit penalty.] If any council, department or officer of any municipality, or person or private corporation, shall fail or refuse for a period of thirty days after notice given him or them by the state board of health of its findings and the approval thereof by the governor and attorney general of the state of Ohio, to do and perform any act or acts required of him or them to be done and performed by this act, such members of council or department, and such officer or officers, or person or private corporation shall be and become personally liable for such default, and upon conviction thereof shall forfeit and pay to the state board of health five hundred dollars to be deposited with the state treasurer to the credit of said board; provided, however, that the governor and attorney general, upon good cause shown, may, in their discretion, remit said penalty, or any part thereof. [O. L., v. 99, p. 77.]

Sec. 7. [Prosecutions; by whom brought and where.] An action may be begun for the recovery of any such penalty by the prosecuting attorney of any county in the name of the state of Ohio in the court of common pleas of such county having jurisdiction of any such party or parties; or it may be begun by the attorney general in any such county or in the county of Franklin, as provided for by sections 210 and 211 of the Revised Statutes of Ohio. [O. L., v. 99, p. 77.]

Sec. 6925. (Bates Revised Statutes.) [Penalty for throwing, emptying, etc., certain refuse, oil or filth into lakes, streams, or drains; fine and costs a lien; execution.] Who-

ever intentionally throws or deposits, or permits to be thrown or deposited, any coal dirt, coal slack, coal screenings, or coal refuse from coal mines, or any refuse or filth from any coal oil refinery, or gas works, or any whey or filthy drainage from a cheese factory, upon or into any of the rivers, lakes, ponds, or streams of this state or upon or into any place from which the same will wash into any such river, lake, pond, or stream; or whoever shall, by himself, agent or employe, cause, suffer or permit any petroleum or crude oil, or refined oil, or any compound, or mixture, or other product of such well, except fresh or salt water, or residuum of oil, or filth, from any oil well, or oil tank, or oil vat, or place of deposit of crude or refined oil, to run into, or be poured, or emptied, or thrown into any river, or ditch, or drain, or water course, or into any place from which said petroleum, or crude oil, or residuum, or refined oil or filth may run or wash, or does run or wash into any such river, or ditch, or drain, or water course, upon indictment and conviction in the county in which such coal mines, coal oil refinery, gas works, cheese factory, oil well, oil tank, oil vat, or place of deposit of crude or refined oil are situated, shall be fined in any sum not more than one thousand dollars nor less than fifty dollars; and such fine and costs of prosecution shall be and remain a lien on said oil well, oil tank, oil refinery, oil vat, and place of deposit, and the contents of said oil well, oil tank, oil refinery, oil vat or place of deposit until said fine and costs are paid; and said oil well, oil tank, oil refinery, oil vat, or place of deposit, and the contents thereof, may be sold for the payment of such fine and costs, upon execution duly issued for that purpose. [O. L., v. 92, p. 287.]

In a prosecution for corrupting the water in a stream, under the Revised Statutes of Ohio, each party is entitled to offer the best available proof, and samples of the water are admissible.

Corruption by others is not an excuse, but is competent as showing that the corrupt matter was not put in by the defendant.

A license issued by the board of health of a township might be a complete defense, but would not bar a recovery in an action for damages nor an action in equity to enjoin the private nuisance. Burch and Johnson v. State, 7 N. P., 379.

Sec. 6926. [Obstructing ditch, drain or water course.] Whoever wilfully obstructs any ditch, drain or water course constructed by proceedings before any board of county commissioners or township trustees, or diverts the water therefrom, shall be fined not more than one hundred nor less than ten dollars. [O. L., v. 72, p. 150.]

Sec. 6927. [Befouling well or spring.] Whoever maliciously puts any dead animal, carcass, or any part thereof, or any putrid, nauseous, noisome, or offensive substance, into or in any manner befouls, any well, spring, brook, or branch of running water, or any reservoir of water works, of which use is or may be made for domestic purposes, shall be fined not more than fifty nor less than five dollars, or imprisoned not more than sixty days, or both. [O. L., v. 70, p. 12.]

If any individual erects a mill-dam which causes disease and sickness, he is responsible to individual sufferers in an action on the case for a nuisance. In such a case it is no defense that the injury affects the whole neighborhood. Nor is the civil remedy merged by an indictment and conviction. Story v. Hammond, 4 O. R. 376.

A city erecting and controlling a workhouse is liable in damages for the corruption of a watercourse into which it has run the sewage of the institution, just as a private individual would be liable. Cleveland v. Beaumont, 4 Bull. 345; 2 Clev. Rep., 172.

The power of creating municipal corporations necessarily implies authority to confer upon them such police powers as may be necessary for their internal government; and a resolution under the municipal act of 1852, directing lot owners "to fill and drain their lots in such manner as shall be necessary to remove all stagnant water," being a reasonable sanitary measure, was not in conflict with the constitution. Bliss v Kraus, 16 O. S., 54.

(1536-544.) R. S. Sec. 2433. [Criminal jurisdiction of municipality to prevent water pollution.] The jurisdiction of any municipal corporation to prevent the pollution of its water supply and to provide penalty therefor, shall extend twenty miles beyond the corporation limits. Whoever pollutes any running stream, the water of which is used for domestic purposes by any municipality by putting therein any putrid or offensive substance, (other than fresh or salt water), injurious to health shall be guilty of a misdemeanor,

which shall be punishable by a fine of not less than five or more than five hundred dollars. It shall be the duty of the board of public service or board of trustees of public affairs of any municipal corporation to enforce the provisions of this section. [O. L., v. 97, p. 135.]

See Burch and Johnson vs. State, 7 N. P., 379, *supra*, p. 18.

DIVISION 3.

REGULATION OF THE CUTTING AND SALE OF ICE.

(1536-749.) R. S. Sec. 2134-1. [**Regulation of the sale of ice for domestic purposes.**] That no ice shall be cut for the purpose of being sold or used for domestic purposes in any city or village of this state from any pond, lake, creek or river within the limits of any such city or village, unless a permit therefor shall first be obtained from the board of health of such city or village, and no person or persons shall sell or deliver any ice in any city or village in this state for domestic purposes without first obtaining a permit therefor from the board of health of such city or village, and it shall be lawful for any such board of health to refuse a permit and to revoke any granted by them, as aforesaid, when in their judgment the use of any ice cut or sold, or to be cut or sold, for domestic purposes, under the same is or would be detrimental to the public health. [O. L., v. 95, p. 330.]

(1536-750.) R. S. Sec. 2134-2. [**Board of health may prohibit sale of ice for domestic purposes.**] That the board of health of any city or village may prohibit the sale or use of any ice for domestic purposes within the limits of such city or village when, in their judgment, the same is unfit for use, and the use of the same would be detrimental to the public health and the said board may prohibit and through its officers stop, detain and prevent the bringing of any such ice for the purpose of sale or use for domestic purposes into the limits of such city or village, and also in the same manner stop, detain and prevent the sale of any such ice for domestic purposes within the limits of such city or village when, in their judgment the same is unfit for use, and the use of the same would be detrimental to the public health, and the said board may prohibit and through its officers stop, detain and prevent the bringing of any

such ice for the purpose of sale or use for domestic purposes into the limits of any such city or village, and also in the same manner stop, detain and prevent the sale of any such ice for domestic purposes found within the limits of such city or village. [O. L., v. 95, p. 330.]

(1536-751.) R. S. Sec. 2134-3. [Penalty.] Whoever violates any provisions of this act, or any order or regulation of the board of health made in pursuance thereof, shall be fined in any sum not exceeding one hundred dollars. [O. L., v. 95, p. 330.]

DIVISION 4.

ORGANIZATION, POWERS AND DUTIES OF LOCAL BOARDS OF HEALTH.

(1536-723.) M. C., Sec. 187. [Board of health; appointment, etc.; when board of public service shall be; in villages, council may appoint health officer; in what cases state board of health may appoint health officer.] The council of each city and village shall establish a board of health; such board shall be composed of five members to be appointed by the mayor and confirmed by the council who shall serve without compensation and a majority of whom shall constitute a quorum; provided, that whenever the council of any city shall declare by ordinance that it will be for the best interests of said city that the board of public service act as a board of health for the city, then upon the passage of said ordinance the board of public service of said city shall be the duly authorized board of health thereof and shall have all the powers and perform all the duties prescribed by law for boards of health; and the mayor shall be president by virtue of his office. In villages the council may appoint a health officer instead of a board of health and fix his salary and term of office, such appointee to be approved by the state board of health, who shall have all the powers and perform all the duties granted to or imposed upon boards of health, except that all rules, regulations or orders of a general character and required to be published, made by such health officer, shall be approved by the state board of health. And if any city, village or township fails or refuses to establish a board of health or appoint a health officer, the state board of health may appoint a health officer for such city, village or township and fix his salary and term of office, and such health officer shall have the same powers and duties as health officers appointed in villages in lieu of a board of health, as herein provided, and the

salary of such health officer, as fixed by the state board of health, and all necessary expenses incurred by him in performing the duties of a board of health shall be paid by and be a valid claim against the city, village or township for which such health officer is appointed to serve. [O. L., v. 97, p. 460.]

A board of health established by an ordinance which is defective because it has not been read three times is nevertheless a *de facto* board. Smith v. Lynch, 29 O. S. 261.

The statute establishing the board creates an office, and, members having entered into the office, acts done under color of appointment are valid. *Id.*

Boards of health, as such, are not bodies corporate, and have no express statutory authority to maintain a suit to prevent the pollution of a stream or to sue or to be sued upon any cause of action; nor has the right been incidentally conferred by 2116-2139 Rev. Stat. (1536—728 to 748). Marion Tp. v. Columbus, 12 O. D. N. P., 553.

Boards of health are invested with legislative, *quasi* judicial and executive or governmental powers, in the exercise of which proceedings of a most summary character are permitted; but they are not liable for negligence in the discharge of their official functions, nor can any cause of action accrue in their favor in the absence of any statute providing therefor. *Id.*

A municipal corporation is not liable to respond in damages for the negligent acts of the board of health or health officer. Turner v. Toledo, 15 C. C., 627.

The board of health of a city, or its health officer with the ratification of the board, may enter into a lawful contract for nursing and caring for the sick and for the use of premises occupied as a temporary hospital. Turner v. Toledo, 15 C. C., 627.

It is mandatory upon council to create a board of health, and it is mandatory upon a board of health to appoint a health officer and fix his salary, and the necessary appropriation to meet the expense must be made. State v. Massillon, *seq.*

A health officer does not come within the purview of Section 1717, prohibiting an increase of salary of an officer during his term. *Id.*

Nor does Section 2702, providing for the issuing of a certificate that the necessary funds are on hand before liability is incurred, apply to the salary of a health officer or to the expenses of a board of health; and mandamus will he to compel an appropriation for such salary and expenses. *Id.*

In the opinion it is intimated that a "health officer" is not an officer, but a mere servant, and that he has no term of office. State ex rel. State v. Massillon, 2 C. C. N. S., 167.

Mandamus will not lie against a board of health by a physician, where a regulation of the board requires a registration as a condition precedent to practicing medicine, unless it appears the discretion conferred has been abused. But where the right to register and the quali-

fications to practice depend, as they did in this case, upon the approval of the board, the regulation is invalid. State ex rel. v. Cincinnati, 8 C. C., 401.

The establishment of a board of health is a valid exercise of the police power. *Id.*

A member of a municipal board of health is an officer of the municipality, and as such ineligible to the office of district physician during his term and for one year thereafter, and he cannot therefore recover for services rendered in such capacity. Winn v. Wichgar, 17 O. C. D., 743.

(1536-724.) M. C., Sec. 188. **[Railroads, vessels, etc., may be subjected to quarantine; running of trains not to be prohibited; quarantine rules and regulations must be furnished state board of health.]** The state board of health, or the board of health of any city, village or township, in time of epidemic or threatened epidemic, or when any dangerous communicable disease is unusually prevalent, may, after a personal investigation by the members or executive officer of such board to establish the facts in the case, and not otherwise, impose a quarantine on vessels, railroads, stages, or any other public or private vehicle conveying persons, baggage or freight, or used for such purpose, and may make and enforce such rules and regulations as such board may deem wise and necessary for the protection of the health of the people of the community or state; provided, however, that the running of any train or of any cars on any steam or electric road, or of steamboats, vessels, or other public conveyances shall not be prohibited. A true copy of such quarantine rules and regulations adopted by a local board of health, shall be immediately furnished by such board to the state board of health. Such quarantine rules and regulations, when established by a local board of health, after careful investigation by the state board of health, may be altered, relaxed or abolished by order of said state board and thereafter no change shall be made except by the order of the state board of health, or by the local board, to meet some new and sudden emergency. [O. L., v. 96, p. 80.]

(1536-725.) M. C., Sec. 189. [Powers and duties of

boards of health; cannot close public highways, etc.; local quarantine; employes to be continued.] The board of health herein provided for shall have all the powers and perform all the duties, not inconsistent with this act, which are conferred or required in sections 2115, 2116, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147 and 2148 of the Revised Statutes of Ohio, as amended May 7, 1902 (95 O. L., 421), and section 2114 of the Revised Statutes of Ohio, as amended May 12, 1902 (95 O. L., 643), and for all purposes such sections as amended shall remain in full force and effect; and nothing herein contained shall be held to impair, restrict or repeal any portion of the act passed April 23, 1902, entitled, "An act authorizing the levy of taxes in municipalities to provide for firemen's, police and sanitary police pension or relief funds, and to create and perpetuate boards of trustees for the administration of such funds"; provided further, that local boards of health shall not have power to close public highways or to prohibit travel thereon, nor to interfere with public officers not afflicted with or directly exposed to any contagious or infectious diseases, in the discharge of their official duties; nor to establish quarantine of one city, village or township against another city, village or township, as such, without permission first obtained from the state board of health, and under such regulations as may be established by the state board. All employes now serving in the health department shall continue to hold their said positions and shall not be removed from office or reduced in rank or pay, except for cause assigned, and after a hearing has been afforded them before the board. [O. L., v. 96, p. 80.]

The health officer is not an employe as that word is used in this section. State ex rel. v. Craig, 69 O. S., 236.

(1536-726.) **R. S. Sec. 2114. [Term of office of members.]** The term of office of the members of the board shall be five years from the date of appointment, and until their

successors are appointed and qualified, except that those first appointed shall be classified as follows: One to serve for five years; one for four years; one for three years; one for two years, and one for one year, and thereafter one shall be appointed annually. Provided that in all municipalities now having a board of health, in place of the two members of such board of health whose term of office shall first expire, one shall be appointed for five years; in place of the two members of the board whose term of office shall next expire one shall be appointed for two years, and one for three years, and in place of the two members of the board whose term of office shall thereafter expire one shall be appointed for four years, and one for five years, and thereafter one shall be appointed annually. [O. L., v. 95, p. 643.]

(1536-727.) R. S. Sec. 2115. **[Board of health shall appoint health officer, clerk, physician, etc.; members of board cannot act as health officer.]** The board of health shall appoint a health officer, who shall be the executive officer, who shall furnish his name and address and such other information as may be required by the state board of health; and may appoint a clerk, and may appoint, with the consent of the council, as many ward or district physicians, or one ward physician for each ward in their city as they may deem necessary, whose duty it shall be to care for the sick poor in his district or ward and to care for the person or persons quarantined in his ward when such person or persons are unable to pay for medical attendance, and to care for all persons sent from his ward to the municipal pest house when such persons are unable to pay for medical attendance. The board of health shall also have power to appoint, with the consent of council, as many persons for sanitary duty as in its opinion the public health and sanitary condition of the corporation may require, and such persons shall have general police powers, and be known as the sanitary police. The board shall have exclusive control of their appointees, and define their duties and fix their salaries; but no member of the board of health shall be

appointed as health officer; neither shall a member of the board of health nor the health officer be appointed as one of the ward physicians. All such appointees shall serve during the pleasure of the board. [O. L., v. 97, p. 331.]

The appointment of a successor indicates the pleasure of the board and marks the termination of the services of the former appointee. State ex rel. v. Craig, 69 O. S., 236.

(1536-728.) R. S. Sec. 2116. **[Meetings of board; duties of clerk; books and blanks to be procured.]** The board of health in cities and villages shall elect one of their number president pro tem, who shall preside in the absence of the mayor, and shall do and perform all duties incumbent upon the president. The board shall meet for the transaction of business at least once in each calendar month, and as much oftener as is necessary for the prompt and thorough transaction of its business. All special meetings of the board shall be called by the president or three members thereof. The clerk of the board shall keep a full and accurate record of all proceedings of the board, together with a record of all cases of contagious diseases reported to the health officer, and at the expiration of his term of office shall turn over to his successor all books, records, papers, and other matter belonging to the board. Each board of health, or the health officer where there is no board of health, shall procure suitable books, blanks, and other things actually necessary to the transaction of its business. Among the books to be procured and kept shall be a suitable book or books for the registration of cases of infectious or contagious diseases. [O. L., v. 99, p. 307.]

(1536-729.) R. S. Sec. 2117. **[Township board of health; duties and powers; organization; health officer and sanitary police; meetings.]** In each township the trustees of the township shall constitute a board of health, which shall be for the township outside the limits of any city or village, and such boards shall have the same duties and powers as are herein imposed or granted to boards of health in cities and villages. They shall annually elect one of their number

president, and the township clerk shall be the clerk of the board of health; they shall appoint a health officer and may appoint as many sanitary officers as they deem necessary to carry out the provisions of this act, and define their duties and fix their compensation, and such appointees shall serve during the pleasure of the board. Township boards of health shall meet annually and at such other times as they may deem necessary. [O. L., v. 95, p. 424.]

Township boards of health and township trustees, although the latter constitute the former, as provided by Section 2117, Rev. Stat. (M. C. 1536-729), are separate and distinct functionaries. Nor do Secs. 1462 and 1463, Rev. Stat., imposing duties upon township trustees to prevent the spread of certain diseases, authorize them to bring an action as trustees acting in the capacity of a board of health. Board of Health of Marion Township v. Columbus, 12 O. D. N. P., 553.

A member of the board of health cannot be appointed sanitary policeman and draw compensation for that office. State ex rel. Henry v. Newark, 6 N. P., 523.

(1536-979.) **M. C. Sec. 223. [Appointments.]** The directors of public safety, directors of the university, street commissioner or any board or officer whose appointment is required by this act shall be appointed not earlier than the second Monday in May and not later than the first Monday in June, 1903, and subsequently, after the expiration of the terms of said boards and officers, their successors shall be appointed not earlier than the second Monday in January, and not later than the first Monday in February, and the boards and officers serving when this act goes into effect shall hold their respective offices until their successors are appointed as required herein. [O. L., v. 97, p. 39.]

(1536-996.) **R. S. Sec. 1737. [Qualifications; oaths; deputies; solicitor.]** Each officer of the corporation, or any department or board thereof, whether elected or appointed as a substitute for a regular officer, shall be an elector within the corporation, except as herein expressly provided, and before entering upon his official duties, shall take an oath or affirmation to support the constitution of the United States and the constitution of Ohio, and an oath or affirmation that he will faithfully, honestly, and

impartially discharge the duties of the office; and the provisions as to official oaths shall extend to deputies, but they need not be electors. And no person shall be eligible to the office of solicitor of the corporation who is not an attorney and counselor of [at] law duly admitted to practice in this state as provided by law. [O. L., v. 92, p. 68.]

(1536-999.) R. S. Sec. 1740. **[Effect of failure to take oath or give bond.]** The council may declare vacant the office of any person elected or appointed to an office who shall fail to take the oaths required in section seventeen hundred and thirty-seven, or to give any bond required of him, within ten days after he has been notified of his appointment, or election, or obligation to give a new or additional bond, as the case may be. [O. L., v. 67, p. 70.]

Sec. 1453. **[Notice to township officers elected or appointed to appear and qualify; service of such notice.]** The township clerk shall forthwith, after the election or appointment of township officers, make out a list of all the officers elected or appointed, stating the offices to which they are respectively chosen or appointed, and add thereto a requisition that they severally appear before him, or some other officer authorized to administer oaths, and take the oath of office and give bond (if required by law to give bond) as provided by law; and the said clerk shall forthwith make service of such list and requisition by delivering to each person so elected or appointed a copy thereof, or such list may be delivered to any constable of said township, who shall make service of the same as required aforesaid, and said list and requisition, with the time and manner of service thereon, shall be returned and filed in the office of said clerk. [O. L., v. 97, p. 188.]

The attorney-general has decided that a township health officer appointed under the provisions of (1536-729) R. S., Sec. 2117, must take the oath of office prescribed in Section 1453, 46 W. L. B., 124.

(1536-730.) R. S. Sec. 2118. **[Orders and regulations of city, village, hamlet or township board.]** The board of health of any city, village, hamlet or township may make

such orders and regulations as it may deem necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement or suppression of nuisances. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, advertised, recorded and certified as are ordinances of cities and villages; and the record thereof shall be given, in all courts of the state, the same force and effect as is given such ordinances; and in townships the posting of such orders and regulations in five conspicuous places within the township shall be deemed a sufficient notice thereof. [O. L., v. 95, p. 424.]

See Klopfer case, p. 178.

1536-731.) R. S. Sec. 2119. [Penalty for violation of this act.] Whoever violates any provision of this chapter, or any order or regulation of the board of health made in pursuance thereof, or obstructs or interferes with the execution of any such order, or wilfully or illegally omits to obey any such order, shall be fined in any sum not exceeding one hundred dollars or imprisoned for any time not exceeding ninety days or both; but no person shall be imprisoned under this section for the first offense, and the prosecution shall always be as and for a first offense, unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense. [O. L., v. 95, p. 424.]

(1536-732.) R. S. Sec. 2120. [Violation by a corporation.] If such violation, obstruction, interference or omission be by a corporation, it shall forfeit and pay to the proper city, village, hamlet or township, any sum not exceeding three hundred dollars, to be collected in a civil action brought in the name of the city, village, hamlet or township; and any officer of such corporation having authority over the matter, and permitting of such violation, shall be subject to fine or imprisonment, or both, as heretofore provided. The judgment herein authorized being in the nature of a penalty, or exemplary damage, no proof of

actual damages shall be required, but the court or jury, finding other facts to justify recovery, shall determine the amount by reference to all the facts, culpatory, exculpatory or extenuating, adduced upon the trial. [O. L., v. 95, p. 424.]

(1536-733.) R. S. Sec. 2121. [Prosecutions; how instituted.] Prosecutions under this chapter and the civil action provided for in the preceding section, shall be instituted before any justice of the peace within the county, or justice of the peace, mayor or police judge of the city or village where the offense was committed, or the offending person resides. If imprisonment is, or may be a primary penalty, the court shall, after plea of not guilty, unless a trial by jury is waived, issue a venire to any constable of the county, containing the names of sixteen electors residing within the county, to serve as jurors to try such cause. Each party shall be entitled to two peremptory challenges, and challenges for cause in all particulars, as in criminal cases in the court of common pleas. If the sixteen names be exhausted without obtaining a panel of twelve, the court may direct the constable to summon any of the bystanders to fill the panel to twelve, or on demand, shall issue other venires for four electors at a time, until the panel of twelve is full. In prosecutions under this chapter, no deposit for costs shall be required; and a judgment or verdict of guilty shall be immediately followed by sentence and execution thereof, unless suspended pending the preparation and allowance of a bill of exceptions; and all fines collected under this chapter shall be paid to the treasurer of the municipality or township and credited to the sanitary fund of the board of health instituting the prosecution. No fine imposed in any prosecution under this section shall be remitted by the magistrate before whom the complaint is made. [O. L., v. 95, p. 425.]

(1536-734.) R. S. Sec. 2122. [Abatement of nuisances by board of health; regulation of erection of buildings; water closets, privies, etc.; power of board to order changes

and abate nuisances.] The board of health shall abate and remove all nuisances within its jurisdiction. It may compel the owners, agents, assignees, occupants, or tenants of any lot, property, building or structure upon or in which any nuisance may be, to abate and remove the same by orders therefor, and treat the neglect or refusal to obey orders for such purpose as a misdemeanor punishable as hereinbefore provided. The board of health may, except in cities having a building department, or otherwise exercising the power to regulate the erection of buildings, regulate the location, construction and repair of all water-closets, privies, cesspools, sinks, plumbing and drains; and in such cities having such departments or exercising such power, the council shall by ordinance prescribe such rules and regulations as are approved by the board of health, and shall provide for the enforcement thereof.

The board may also regulate the location, construction and repair of all yards, pens and stables, and the use, emptying and cleaning thereof and of all water-closets, privies, cesspools, sinks, plumbing, drains, or other places where offensive or dangerous substances or liquids are or may accumulate, and when any building, erection, excavation, premises, business, pursuit, matter or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in the opinion of the board of health, in a condition dangerous to life or health, and when any building or structure is occupied or rented for living or business purposes and sanitary plumbing and sewerage, are feasible and necessary, but neglected or refused, the board of health may declare the same a public nuisance and may order the same to be removed, abated, suspended, altered, or otherwise improved or purified by the owner, agent or other person or persons having control of the same, or being responsible for the condition; and the refusal or neglect to obey said order shall be a misdemeanor, punishable as hereinbefore provided. The board may also, by its officers and employes, remove, abate, suspend, alter, or otherwise improve or purify the same, and certify the costs and expense thereof to the

county auditor, to be assessed against the property, and thereby made a lien upon the same, and collected as other taxes. [O. L., v. 98, p. 188.] In effect April 16, 1906.

Injunction will lie to compel the owner of a privy vault to put it in such a condition as will prevent the escape of its contents upon the premises of another, and the latter is entitled to recover the damages sustained thereby. Monroe v. Koring, 12 O. D. N. P., 561.

(1536-736.) R. S. Sec. 2123. [Proceedings where order of board is neglected or disregarded.] In all cases where the order of the board of health is neglected or disregarded, in whole or in part, the board may elect to cause the arrest and prosecution of the person or persons offending as hereinbefore provided, or may elect to do and perform, by its officers and employes, what the offending party should have done. If the latter course is chosen, before the execution of the order of the board is begun, it shall cause a citation to issue, and be served upon the person or persons responsible, if residing within the jurisdiction of the board; but if not, shall cause it to be mailed by registered letter to said person, if the address is known or can be found by ordinary diligence; and if the address cannot be found by ordinary diligence, shall cause the citation to be left upon the premises, in charge of any person residing thereon; otherwise it shall be posted conspicuously thereon. The citation shall briefly recite the cause of complaint and require the owner or other person or persons responsible, to appear before the board of health at a time and place stated, or as soon thereafter as a hearing can be had, and show cause, if any, why the board should not proceed and furnish the material and labor necessary to, and remove the cause of complaint. [O. L., v. 95, p. 426.]

(1536-737.) R. S. Sec. 2124. [Further proceedings.] If the person or persons cited appear, he or they shall be fully apprised of the cause of complaint and given a fair hearing. The board shall then make such order as it deems proper, and if material or labor is necessary to satisfy the order, and the person or persons cited promise, within a

definite and reasonable time, to furnish the same, the board shall grant such time; but if no promise is made, or kept, the board shall furnish the material and labor, cause the work to be done, and certify the cost and expense to the auditor of the county. If the material and labor are itemized, and the statement accompanied by the certificate [of the president] of the board, attested by the clerk, reciting the order of the board, and that the amount is correct, the auditor shall have no discretion, but shall place the sum against the property upon which the material and labor were expended, which shall, from the date of entry, be a lien upon the property and be paid as other taxes are paid. [O. L., v. 95, p. 426.]

DIVISION 5.

CONTAGIOUS DISEASES, QUARANTINE AND VACCINATION.

(1536-738.) R. S. Sec. 2125. [Contagious and infectious diseases to be reported; duty of board thereafter.] Every physician or other person called to attend any person who is suffering from smallpox, cholera, plague, yellow fever, typhus fever, diphtheria, membranous croup, scarlet fever, or typhoid fever, or any other disease dangerous to the public health, or required by the state board of health, to be reported, shall report the same to the health officer within whose jurisdiction such person is found, giving in such report the name, age, sex and color of the patient, and the house or place in which such person may be found; and in like manner it shall be the duty of the owner or agent of the owner of a building in which a person resides who has any of the diseases herein named or provided against, or in which are the remains of a person having died of any such disease, and the head of the family, immediately after becoming aware of the fact, to give notice thereof to the health officer; and when complaint is made or a reasonable belief exists that an infectious or contagious disease prevails in any house or other locality which has not been reported as hereinbefore required, the board shall cause such house or locality to be inspected by its health officer, and on discovering that such infectious or contagious disease exists, the board may, as it deems best, send such person so diseased to a quarantine hospital or other place provided for such persons, or may restrain them and others exposed within said house or locality from intercourse with other persons, and prohibit ingress and egress to or from such premises. [O. L., v. 95, p. 427.]

Proper action against a physician for failure to report smallpox was held to be a civil action in the name of the State to recover the penalty and by warrant for arrest. State v. Chandler, 7 W. L. B., 97.

BOARD OF HEALTH.

Boards of health possess both express and implied powers to make reasonable regulations for the sanitary inspection and examination of houses of prostitution and assignation in order to prevent and restrict disease and promote the public health. 12 Dec., 376.

A regulation requiring all known prostitutes to submit to a personal examination once every week by a district physician, to determine whether they are affected with any venereal disease, and, if found free therefrom, to receive a certificate to that effect, which certificate can only be obtained from the health office, and are required to be conspicuously displayed in the rooms of such persons, is not unreasonable as a compromise with crime or in restraint of personal liberty or invalid for any other reason. The expense of such examination is properly chargeable against the persons examined. Fees for such examination must go into the city treasury, and not to the physician. Cincinnati v. Allison, 12 O. D. N. P., 533.

(1536-739.) R. S. Sec. 2126. [Quarantine of persons having or having been exposed to contagious disease; precautions to be taken by physicians; duration of quarantine; quarantine guards.] It shall be the duty of the board of health when a case of smallpox, cholera, plague, yellow fever, typhus fever, diphtheria, membranous croup, or scarlet fever is reported within its jurisdiction, to at once cause to be placed in a conspicuous position on the house wherein any of the aforesaid diseases occur a quarantine card having printed on it in large letters the name of the disease within, and to prohibit entrance to or exit from such house without written permission from the board of health; and no person quarantined by a board of health on account of having a contagious disease, or for having been exposed thereto, shall leave such quarantined house or place without the written permission of the board of health; and every physician attending a person affected with any of the aforementioned diseases shall use such precautionary measures to prevent the spread of the disease as may be required by the board of health. No person shall remove, mar, deface or destroy such quarantine card, which shall remain in place until after the patient has been removed from such house, or has recovered and is no longer capable of communicating the disease, and the said house and the contents thereof have been properly purified and disinfected by the board of health, and where other inmates of said house have

been exposed to and are liable to become ill of any of said diseases, for a period thereafter counting from the completion of disinfection, as follows, to-wit: in diphtheria and membranous croup, 14 days; in smallpox, 17 days; in scarlet fever, 10 days; in cholera or yellow fever, 7 days; in typhus fever, 21 days, and in cases of measles, chickenpox and whooping cough, or either of them, the board of health may require the same report of cases and may enforce the same quarantine and other preventive measures as are provided for in this chapter in cases of scarlet fever, or diphtheria. The board of health may employ as many persons as it deems necessary to execute its orders and properly guard any house or place containing any person or persons affected with any of the diseases named herein, or who have been exposed thereto, and such persons shall be sworn in as quarantine guards, shall have police powers, and may use all necessary means to enforce the provisions of this chapter for the prevention of contagious or infectious disease, or the orders of any board of health made in pursuance thereof. [O. L., v. 95, p. 427.]

(1536-740.) R. S. Sec. 2127. **[Penalty for appearance in public place of person suffering with contagious disease; penalty for unlawful disposal of infected property.]** Any person who, while suffering from smallpox, cholera, plague, yellow fever, diphtheria, membranous croup, scarlet fever, wilfully or unlawfully exposes himself in any street, shop, inn, theatre or other public place or public conveyance, or being in charge of any person so suffering so exposes such sufferer, or gives, lends, sells, transmits or exposes, without previous disinfection by the board of health, or under its direction, any bedding, clothing, rags or other thing which has been exposed to infection from any such disease, or who knowingly lets for hire any house, room or part of a house in which any person has been suffering from any such disease, prior to such house, room, or part of a house having been disinfected by the board of health, shall be guilty of a misdemeanor and punishable as hereinbefore provided. [O. L., v. 95, p. 428.]

(1536-741.) R. S. Sec. 2128. [Disinfection of houses in which person has been ill with contagious disease; procedure; destruction of infected property; compensation for property destroyed; maintenance of person confined in quarantined house; expenses; by whom paid.] It shall be the duty of every physician who is attending a person affected with smallpox, yellow fever, typhus fever, diphtheria, membranous croup, or scarlet fever, when such person has recovered and is no longer liable to communicate the disease to others, or has died, to furnish a certificate to the proper board of health of such recovery or death, and as soon thereafter as the board of health deems it advisable its health officer or other person appointed for the purpose shall thoroughly disinfect and purify the house and contents thereof in which such person has been ill or has died, which disinfection and purification shall be done in accordance with the rules and regulations adopted and promulgated by the state board of health, and the local board of health may purchase such disinfecting apparatus and supplies as it deems necessary for such purpose; and upon the request of the owner or occupant of any dwelling house, or the head of any family, the board of health shall purify and disinfect any room which has been occupied by any person suffering from pulmonary tuberculosis, commonly called consumption, or room in which any person has died from said disease; the expenses of disinfection shall be paid by the local board of health, and said board may destroy any infected clothing, bedding, or other article which cannot be made safe by disinfection, and shall furnish to the owner thereof a receipt, of which it shall keep a full and accurate copy, for articles so destroyed, which receipt shall show the number, character, condition, and estimated value of the articles destroyed and when any building, hut, or other structure has become infected with smallpox or other dangerous communicable disease, and cannot, in the opinion of the board of health, be made safe by disinfection, the board may have such building, hut, or other structure appraised and destroyed, and the council of cities and vil-

lages or other board or body having the powers of council, and the trustees of hamlets and townships, upon the presentation of the original receipt or written statement of the appraisers for articles or houses so destroyed, shall pay to the owner thereof, or other person authorized by the owner to receive the same, the estimated value of such destroyed articles, or such sum as the council or other legislative body may deem a just compensation therefor, and in the event the owner is not satisfied with the amount so allowed he may sue for the value thereof. When a house or other place is quarantined on account of contagious disease it shall be the duty of the board of health having jurisdiction to provide for all persons confined in such house or place, food, fuel, and all other necessaries of life, including medical attendance, medicine and nurses, when necessary; the expenses so incurred, except those for disinfection, quarantine, or other measures strictly for the protection of the public, when properly certified by the president and clerk of the board of health, or health officer where there is no board of health, shall be paid by the person or persons quarantined, when able to make such payment, and when not by the city, village, hamlet or township in which he or they were quarantined, provided that when a person with a contagious disease quarantined in any county is a legal resident of some other county of this state, and is unable to pay such expenses, they shall be paid by the county in which he has a legal residence, if notice and a sworn statement of the amount of such expenses are sent to the infirmary directors of said county within thirty days after the quarantine in such case was discharged; provided, further, that the expenses for quarantining a county infirmary or other county public institution shall be paid by the county when properly certified by the president and clerk of the board of health or health officer, where there is no board of health, of the municipality, or township in which said institution is located. [O. L., v. 97, p. 540.]

An owner cannot recover damages because his house was quarantined, although serious loss may have resulted, unless the loss was the

result of malice on the part of the officers. Turner v. Toledo, 15 C. C., 634.

A petition which pleads an oral contract with a board of health for the furnishing of necessaries to a family quarantined on account of smallpox, is good under Section 2128, et seq. (M. C.), against a general demurrer. Meiley v. Columbus, 6 N. P. N. S., 398.

(1536-742.) R. S. Sec. 2129. [Person residing in quarantined house shall not attend any public gathering until quarantine is removed.] No person residing in or occupying any house in which there is a person suffering from smallpox, cholera, plague, typhus fever, diphtheria, membranous croup, or scarlet fever, shall be permitted to attend any public, private, or parochial school, or college or Sunday school, or any other public gathering, until the quarantine provided for in such diseases in section 2126 has been removed by the board of health, and all school principals, Sunday school superintendents, or other persons in charge of such schools, are hereby required to exclude any and all such persons until such time as they may present a written permit of the board of health to attend or re-enter such schools. [O. L., v. 95, p. 429.]

(1536-743.) R. S. Sec. 2130. [City may establish hospital for contagious diseases; bond issue; board of health to control; quarantine hospital.] The council or other legislative body of any city may purchase land or lands within or without its boundaries and erect thereon suitable hospital buildings for the isolation, care or treatment of persons suffering from a dangerous contagious disease, and provide for the maintenance of such hospital; the plans and specifications for such building or buildings shall be approved by the board of health, and the council or other legislative body is hereby authorized to issue bonds; if after an election held for that purpose, two-thirds of the vote cast at said election are in favor of said issue, in any amount not to exceed $25,000, and at a rate of interest not to exceed 5 per cent. per annum, the principal to be paid within ten years and the proceeds applied for the purposes aforesaid, and after the erection of such hospital buildings the council or other

legislative body may annually make such appropriations for their use, care and maintenance as in its judgment are necessary. Said hospital buildings shall be under the charge and control of the board of health of such city, said board to appoint all employes or other persons necessary to the use, care and maintenance of such hospital buildings, and to regulate the entrance of patients thereto, and their care and treatment therein. When any person suffering from any dangerous contagious disease is found in any hotel, lodging house, boarding house, tenement house or other public place in any city, the board of health may, if it deems it necessary for the protection of the public health, remove such person to the hospital herein provided for, where all needful provisions shall be made for his care and treatment, and the expenses so incurred shall be paid by such person, if such person is able to pay said expenses. Any city, village, hamlet, or township may establish a quarantine hospital, within or without its own limits, but if such place be without its limits, the consent of the municipality or township within which it is proposed to establish it shall be first obtained, provided that such consent shall not be necessary if such hospital is more than 800 feet from any occupied house or public highway; and when great emergency exists, the board of health may seize and occupy and use temporarily for such quarantine hospital any suitable vacant house or building within its jurisdiction, and the board of health of the city, village, hamlet or township having a quarantine hospital shall have exclusive control of the same. [O. L., v. 95, p. 430.]

A municipality is bound to pay for the care of quarantined patients, the contract for their care having been entered into by the board of health. Turner v. Toledo, 15 C. C., 634.

A smallpox hospital, established in 1878, outside of the corporate limits, but in the township where the city is located, on a lot facing the public highway, 250 feet back from the road, will not be abated as a public nuisance, although dwellings have been erected adjacent to said lot since the hospital was established, together with a public school built directly opposite. Youngstown Tp. v. Youngstown, 15 C. D., 518.

A pesthouse will not be abated when the specific acts complained of could be prohibited by injunction. *Id.*

The erection of an additional building for such hospital purposes on such lot within fifty feet of the road, and directly opposite such schoolhouse, will be enjoined as a public nuisance. *Id.*

Pesthouses are absolutely necessary and usually are located in remote places. Whether they are nuisances depends upon the way in which they are occupied and their location. A pesthouse located in a thickly populated community near residences and in close proximity to schoolhouses, when persons are infected with malignant and contagious diseases, such as smallpox, yellow fever, or cholera, is a nuisance, and a court of equity may abate it. Rolling v. Lorain, 13 O. Dec., 87.

The same case carried to the Circuit Court on error (3 C. C. N. S., 660), decides that a pesthouse is not a nuisance *per se*.

Rolling v. Lorain holds that a pesthouse established by a city cannot be located outside of the city limits without first obtaining the consent of the township trustees. 13 Dec., 87.

This proposition is reversed by the Circuit Court in Lorain v. Rolling, 3 C. C. N. S., 660.

(1536-744.) R. S. Sec. 2131. **[Disposal of bodies of persons dying of contagious diseases.]** The bodies of persons who have died of smallpox, cholera, plague, yellow fever, typhus fever, diphtheria, membranous croup, scarlet fever, or other dangerous contagious or infectious disease shall be buried or cremated within twenty-four hours after death except by written permission of the board of health, and no public or church funeral shall be held in connection with the burial of a person who has died of any of the above-named diseases, and the body of any such person shall not be taken into any church, chapel or other public place, and only the adult members of the family and such other persons as are actually necessary shall be present at the burial or cremation of such body. [O. L., v. 95, p. 430.]

(1536-746.) R. S. Sec. 2132. **[Admission of persons suffering with contagious disease into prisons or benevolent institutions; contagious disease in prison or benevolent institution.]** No person suffering from smallpox, or other dangerous contagious or infectious disease shall be sent to or admitted into any prison, jail, workhouse, infirmary, children's or orphans' home or state hospital or institution for the insane, epileptic, blind, feeble-minded, or deaf and dumb, or other state or county benevolent institution, and no person who has been exposed to, and is liable to become

ill of any such disease shall be sent to any such hospital, home or institution hereinbefore mentioned without first making known the facts concerning such exposure to the superintendent, manager or other person in charge thereof; and when smallpox or other dangerous contagious or infectious disease is present in any jail or prison, and a prisoner therein who has been exposed to any such disease has been sentenced to the penitentiary, such prisoner shall be confined and isolated in such jail or prison or other proper place upon the order of the proper court for such time as is necessary to establish the fact that he had not contracted the disease to which he was exposed. When smallpox, cholera, yellow fever, diphtheria, scarlet fever, or other dangerous contagious or infectious disease appears in any prison, jail, workhouse, infirmary, children's or orphans' home, state hospital for the insane, or epileptic, or institution for the blind, feeble-minded or deaf and dumb, or other state or county benevolent institution, the superintendent or manager thereof shall at once isolate the person or persons affected with any such disease and enforce the provisions of this chapter for the prevention of contagious diseases, insofar as they can be applied, and the rules, regulations and orders of the state board of health to that effect, and the trustees or managers of any such institution shall have authority to erect any necessary temporary buildings for the reception of any such person or persons, or for the detention of any person or persons who have been exposed to any such disease and may remove any such persons to and confine them in such building or buildings; and such trustees or managers may contract for the care, treatment or detention of any such persons with any corporation having a hospital or other proper place for the isolation and care of persons suffering from contagious disease, or exposed thereto, and may remove such persons to such hospital or place, provided that in the case of persons detained in any institution as punishment for any crime an order for such removal shall be obtained from the court having imposed such punishment, and said court, in such

order for removal, may require such provisions to be made for safely guarding such prisoner while in such hospital or place as it may deem necessary. [O. L., v. 95, p. 431.]

(1536-748.) **R. S. Sec. 2134. [Effect of declaring quarantine.]** Whenever quarantine is declared, all railroads, steamboats, or other common carriers, and the owners, consignees, or assignees of any railroad, steamboat, stage, or other vehicle used for the transportation of passengers, baggage, or freight, shall submit to any rules or regulations imposed by any board of health or health officer; they shall submit to any examination required by the board of health or health officer; they shall submit to any examination required by the health authorities respecting any circumstances or events touching the health of the crew, operatives or passengers, and the sanitary conditions of the baggage and freight; and any owner, consignee or assignee, or other person interested as aforesaid, who makes any unfounded statement or declaration respecting the points under examination, shall, upon conviction thereof before any court or justice of the peace having jurisdiction be subjected to the penalties herein provided for violations of the requirements of this chapter and the orders of the state or local boards of health. [O. L., v. 95, p. 432.]

(1536-752.) **R. S. Sec. 2135. [To whom and what quarantine rules shall apply.]** All rules and regulations passed by the board of health or health officer, shall apply to all persons, goods, or effects arriving by railroad, steamboat, or other vehicle of transportation, after quarantine is declared. [O. L., v. 95, p. 432.]

(1536-753.) **R. S. Sec. 2136. [Needful buildings may be erected; disinfection, etc., of property.]** The state board of health or any local board of health shall be authorized to erect any temporary wooden buildings or field hospitals deemed necessary for the isolation or protection of persons or freight supposed to be infected, and may employ nurses, physicians and laborers sufficient to operate the same properly, and sufficient police to guard the same. The board of

health may cause the disinfection, renovation or complete destruction of bedding, clothing, or other property belonging to corporations or individuals, when such action seems to such board necessary, or a reasonable precaution against the spread of contagious or infectious diseases. [O. L., v. 95, p. 432.]

(1536-754.) R. S. Sec. 2137. **[Board of health in its relation to schools and school buildings; school inspector; gratuitous vaccination.]** The board of health is hereby required to inspect semi-annually, and oftener if in the judgment of the board it shall be deemed necessary, the sanitary condition of all schools and school buildings within its jurisdiction and may, during an epidemic or threatened epidemic, or when any dangerous communicable disease is unusually prevalent, close any school and prohibit public gatherings for such time as it may deem necessary, and may disinfect any school building. The board shall abate all nuisances and may remove or correct all conditions detrimental to health or well-being found upon school property by serving an order upon the board of education, school board, or other person or persons responsible for such property, for the abatement of such nuisance or condition within a reasonable but fixed time, and any person failing to comply with such order, unless it is shown that there was good and sufficient reason therefor, shall be fined in any sum not exceeding one hundred dollars. The board may appoint such number of inspectors of schools and school buildings as it may deem necessary to properly carry out the provisions of this section. The board of health may take measures and supply agents and afford inducements and facilities for gratuitous vaccination. [O. L., v. 95, p. 433.]

Sec. 3986. **[Board of education may make and enforce rules for vaccination.]** The board of each district may make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of smallpox among the pupils attending or eligible to attend the schools of the

district, as in its own opinion the safety and interest of the public require; and the boards of health and councils of municipal corporations, and the trustees of townships, shall, on application of the board of education of the district, provide at the public expense, without delay, the means of vaccination to such pupils as are not provided therewith by their parents or guardians. [O. L., v. 69, p. 22, sec. 1.]

It is questionable whether or not a board of health has the supervision of the subject of vaccination of pupils admitted to the public schools, since that power has been conferred by general law upon boards of education.

However, when the order of the board of health is acquiesced in by the board of education, the order becomes the order of the latter board, and mandamus will not lie to compel the admission of an unvaccinated pupil to the public schools during the prevalence of an epidemic. Carr v. Columbus, 1 N. P. N. S., 602.

Section 3986, Rev. Stat., authorizing and empowering the boards of education of each school district to make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of smallpox among pupils attending or eligible to attend the schools of the district, as in its opinion the safety and interests of the public require, is a valid enactment, not repugnant to the constitution of the Sate of Ohio, nor in violation of the fourteenth amendment to the constitution of the United States. And under the power thereby conferred, boards of education, in the exercise of a sound discretion, may exclude from the public schools all children who have not been vaccinated.

The enactment of such a statute is a reasonable exercise of the police power of the State, and an action by the board of education under such an act does not depend upon the actual or apprehended existence of smallpox in the school district or community.

The board of education is the judge, in the first instance, whether or not a rule of the board is reasonable, and the court will not interfere unless it appears there is an abuse of official discretion. State ex rel. v. Board of Education, 76 O. S., 297.

A parent who sends his child to a public school and is willing to continue to do so, but the child is excluded for failure to comply with the rule of the board of education requiring vaccination, is not liable to conviction under the compulsory education act. State v. Turney, 12 C. C. N. S., 33.

(3140-3.) Sec. 1. [Report of inflammation, swelling in eyes of infant, etc.; unnatural discharges therefrom.] Should one or both eyes of an infant become inflamed or swollen, or show any unnatural discharge at any time within ten (10) days after its birth, it shall be the duty of the midwife, nurse or relative having charge of such infant to

report in writing within six (6) hours to the physician in attendance upon the family, or, in the absence of an attending physician, to the health officer of the city, village or township in which the infant is living at that time, or, in case there is no such officer, to some practitioner of medicine legally qualified to practice in the state of Ohio, the fact that such inflammation, swelling or unnatural discharge exists. [91 v. 75.]

3140-4.) **Sec. 2. [Penalty.]** Any failure to comply with the provisions of this act shall be punished by a fine of not less than five dollars ($5) nor more than one hundred dollars ($100), or imprisonment for not less than thirty (30) days nor more than six (6) months, or both fine and imprisonment. [91 v. 75.]

Sec. 4018. [General duties of teachers.] All teachers shall exercise reasonable care in regard to all school property, apparatus, and supplies intrusted to their keeping. They shall strive to guard the health and physical welfare of the pupils in their schools, give efficient instruction in the studies pursued, and endeavor to maintain and preserve good discipline over all the pupils under their charge, etc. [97 v. 363.]

Sec. 4018-a. [Medical inspection of pupils.] Any board of education in a city school district may provide for the medical inspection of pupils attending the public schools and for that purpose may employ competent physicians and nurses and provide for and pay all expenses incident thereto from the public school funds or may by agreement with the board of health or other board or officer performing the functions of a board of health for such city, provide for medical and sanitary supervision and inspection of the schools which are under the control of such board of education and of the pupils attending such schools, by a competent physician selected by the parent or guardian of the child, but in case of failure upon the part of the parent or guardian, then by the district physicians and other employes to be appointed by such board of health, and any

board of education in a city school district making such agreement shall have power to provide and pay compensation to the employes of the board of health in addition to that provided by the city. [O. L., 100 v. 12.]

Sec. 1. **[Furnishing antitoxin to persons in indigent circumstances.]** Whenever any physician, regularly authorized to practice medicine under the laws of Ohio, shall be called upon to treat any person suffering from diphtheria who is in indigent circumstances or any child suffering from diphtheria whose parents are in indigent circumstances, and in the opinion of said attending physician antitoxin should be administered to said person or child or to others who may have been exposed to the contagion of said disease, said physician may make application to any health officer within the county who, when he shall be satisfied of the indigent circumstances of the persons to be treated, shall certify the same to the county commissioners and shall also immediately authorize the attending physician or any druggist to furnish said antitoxin for the persons so to be treated, and the antitoxin so furnished shall be paid for upon the allowance of the county commissioners out of the general fund of the county. [O. L., v. 99, p. 19.]

(1536-755.) R. S. Sec. 2138. **[Power of municipality or township to borrow money and levy tax therefor in time of epidemic or threatened epidemic; expenses of board of health; how paid; township levy.]** In case of any epidemic, or threatened epidemic, or during the unusual prevalence of any dangerous communicable disease, the council of any city or village or trustees of any hamlet or township, if funds are not otherwise available, shall borrow until such time as the next levy and collection thereof be made, and at a rate of interest not to exceed six per cent. per annum, any sum of money that the local board of health may deem necessary to defray the expenses necessary to prevent the spread of any dangerous communicable disease, and the board of health may proceed to expend the amount so authorized to be borrowed, which sum, or so much thereof

as may be expended, shall be a valid claim against the city, village, hamlet, or township, payable from the fund so created; and when expenses are incurred by the board of health, under the provisions of this chapter, it shall be the duty of council, upon application and certificate from the board of health, to pass the necessary appropriation ordinances to pay the expenses so incurred and certified; and the council is hereby empowered to levy (subject only to the restrictions contained in the ninth division of this title) and set apart the necessary sum to pay such expenses, and to carry into effect the provisions of this chapter, and the provisions of section 2702 shall not apply to the necessary expenses of the board of health, and the trustees of each township may annually levy and set aside for the expenses of the township board of health such sum as they deem necessary. [O. L., v. 95, p. 433.]

DIVISION 6.

GARBAGE AND ITS DISPOSAL.

(1536-759.) R. S. Sec. 2142. [Scavengers; employment of; dump grounds.] The council may grant power to the board of health to employ such number of scavengers for the removal of swill, garbage and offal from the houses, buildings, yards, and lots within the city or village as it may deem necessary; and the board in such cases may make the contracts [therefor] thereof, subject to the approval of the council, and to be signed by the proper officers of the council, and may regulate the work to be done, and it shall be the duty of council, upon the request of the board of health, to lease or purchase suitable land or lands, the location of which shall be approved by the board of health, to be used as a dump ground for garbage, swill, offal, night soil and other noxious substances to be removed from such city or village. [O. L., v. 95, p. 435.]

(1536-760.) R. S. Sec. 2143. [Definition of sanitary plant; plans and estimates; condemnation of lands for sanitary plant; approval of state board of health.] The expression "sanitary plant" as herein used, shall be held to mean a structure with the necessary land and all the necessary fixtures and appliances and appurtenances required for the treatment and purification and disposal, in a sanitary manner, of either or both the liquid or solid wastes of the municipality. Upon the recommendation of the board of health of any city, village, or hamlet, or if in any municipality, the powers usually vested in a board of health, have been vested in any other officer or board, then upon the recommendation of such officer or board, the city council, legislative body or other governing board, of any municipality, is hereby authorized to cause plans and estimates to be prepared and to acquire by condemnation or otherwise such land or lands within or without corporate limits,

as may be necessary to provide for the proper disposal, in a sanitary manner, of the sewage and the garbage and waste matters, or either or any of them of the municipality, and such council, legislative body or other governing board of the municipality, is hereby authorized, upon first obtaining the approval of the state board of health, to contract for, erect and maintain a sanitary plant or plants, on the land or lands acquired under the provisions of this act, together with all buildings, machinery, appliances and appurtenances, necessary for the disposal, in a sanitary and economic manner, of the sewage and garbage, night soil, dead animals, offal, spoiled meats, and fish or any putrid substance, or any liquid or solid wastes, or any substance injurious to health of the municipality. [O. L., v. 95, p. 435.]

(1536-761.) R. S. Sec. 2144. **[Collection, removal and disposal of garbage, night soil, etc.]** The said council, legislative body or other governing board, is hereby authorized to contract, for a period not exceeding five years for the collection and removal of such garbage, night soil, dead animals and other solid waste substances, at the expense of such municipal corporation, or at the expense of persons responsible for the existence of such waste substances. [O. L., v. 95, p. 436.]

(1536-762.) R. S. Sec. 2145. **[How funds raised for such purpose.]** For the purpose of carrying into effect the foregoing powers, the council of cities, legislative bodies or governing boards of any municipal corporation or township may use any funds raised, or heretofore authorized in any manner and necessary for said purposes, and in case no funds are available and no bonds have been heretofore authorized for said purposes, and it be necessary to issue and sell bonds for said purposes, then the question of issuing any bonds of the municipality shall be submitted at an election conducted therefor in conformity with provisions of section 2836, except that a majority of the votes cast shall be deemed sufficient to authorize the municipal cor-

poration to issue said bonds under this act, and the council or other legislative body shall not have authority to issue the said bonds unless a majority of the qualified electors of such municipality voting shall be in favor of the proposition to issue said bonds for said purposes. [O. L., v. 95, p. 436.]

(1536-763.) R. S. Sec. 2146. [Appointment of sanitary board; constitution of board; how appointed; term; compensation and powers of board.] Before submitting said proposition to a vote of the people, the city council, or other legislative body of said municipal corporation may by resolution, determine to have all the work in connection with the erection and maintenance of said sanitary plant and the acquisition of the necessary real estate therefor, put under the control of a sanitary board, which shall be appointed before the vote is taken. Said board shall consist of two citizens from each of the two political parties casting the highest vote at the last preceding municipal election, who shall be appointed by the mayor by and with the consent and approval of the city council, or other legislative body of said municipal corporation, and shall serve for a term of two years and until their successors are duly appointed. Said board shall have such reasonable compensation as the city council or other legislative body of said municipal corporation may prescribe, and shall have entire control of the erection and maintenance of said sanitary plant and the purchase of the necessary real estate therefor on behalf of said municipal corporation and may, in its discretion, modify said original plans and specifications, subject, however, to the approval of the state board of health, and provided, that the total cost thereof shall not exceed the original estimate. [O. L., v. 95, p. 436.]

(1536-764.) R. S. Sec. 2147. [Levy for sanitary fund.] For the purpose of providing a fund for the payment of the principal and interest of the bonds issued under this act, and of maintaining said sanitary plant or plants, said city council or other legislative body shall, in addition to the

other levies authorized by law, levy annually a sufficient tax therefor on all the property subject to taxation in said municipal corporation and such taxes shall be levied and collected in the same manner as other taxes; and the proceeds thereof shall constitute the "sanitary fund" of said municipal corporation, and shall be held like other funds of said municipal corporation subject only to the written order of said city council or other legislative body, or governing or sanitary board of said municipal corporation which shall have control of said work. [O. L., v. 95, p. 437.]

(1536-765.) R. S. Sec. 2148. **[Sanitary report; its contents, etc.]** It shall be the duty of the board of health, or health department, on or before the fifteenth day of January of each year to make a report, in writing, to the council of the corporation, and to the state board of health, which shall be for the preceding calendar year, upon the sanitary conditions and prospects of such city or village, which report shall contain the statistics of deaths, the action of the board and its officers and agents, and the names thereof for the past year; and it may contain other useful information, and the board shall suggest therein any further legislative action deemed proper for the better protection of life and health; and it shall be the duty of said boards of health and health departments to promptly furnish such special reports as may be called for by the state board of health. [O. L., v. 95, p. 437.]

The business of plumbing is one which is so nearly related to the public health that it may, with propriety, be regulated by law, and reasonable regulations, tending to protect the public against the dangers of careless and inefficient work, and appropriate to that end, do not infringe any constitutional right of the citizen pursuing such calling. State v. Gardner, 58 O. S., 599.

An examination as to fitness is proper, but an act which permits a firm or corporation to engage in the plumbing business when one member of its firm has been examined, is discriminating and the law is invalid. State v. Gardner, 58 O. S., 599, affirming 5 N. P., 46.

DIVISION 7.

LAWS RELATING TO NUISANCES.

(1536-323.) R. S. Sec. 2149. [Powers of municipal corporations to fill lots; remove obstructions, etc.] All municipal corporations shall have power to cause any lot of land within their limits on which water at any time becomes stagnant, to be filled up or drained, and to cause all putrid substances to be removed from any lot, and to cause the removal of all obstructions from all culverts or covered drains on private property, laid in any natural water-course, creek, brook or branch where the same obstructs the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort or convenience of any of the citizens of the neighborhood; and if such culverts or drains be of insufficient capacity, to cause the same to be made of such capacity as reasonably to accommodate the flow of such water at all times therein; and the council may direct, by resolution, the owner to fill up or drain such lot, remove such putrid substance, or remove such obstructions, and if necessary enlarge such culverts or covered drains to meet the requirements thereof. [O. L., v. 81, p. 37.]

See Zanesville vs. Farman, 53 O. S., 605.

(1536-324.) R. S. Sec. 2150. [Duty of owner to comply with direction.] It shall be the duty of such owner, or his agent or attorney, after service of a copy of such resolution, or after a publication of the same in some newspaper of general circulation in such corporation for two consecutive weeks, to comply with the directions of the resolution within the time therein specified. [O. L., v. 66, p. 225.]

(1536-325.) R. S. Sec. 2151. [To be done at owner's expense, in case of refusal or neglect.] In case of failure or refusal to comply with the resolution, the work required thereby may be done at the expense of the corporation, and the amount of money so expended shall be recovered from

the owner before a justice of the peace, or other court of competent jurisdiction; and such expense shall, from the time of the adoption of the resolution, be a lien on such lot, which may be enforced by suit in the court of common pleas of the proper county; and like proceedings may be had as directed in relation to the improvements of streets. [O. L., v. 66, p. 225.]

(1536-326.) R. S. Sec. 2152. **[Duty of health officers to enforce provisions of this chapter.]** It shall be the duty of the officers connected with the health department of every such municipal corporation to see that the provisions of this chapter are strictly and promptly enforced. [R. S. of 1880.]

Sec. 6919. **[Corporations may be prosecuted for nuisance; court to order nuisance abated.]** Corporations may be prosecuted by indictment for violations of any of the provisions of sections sixty-nine hundred and twenty-one, sixty-nine hundred and twenty-two, sixty-nine hundred and twenty-three, sixty-nine hundred and twenty-four, sixty-nine hundred and twenty-five, and sixty-nine hundred and twenty-six, and sixty-nine hundred and twenty-seven; and in every case of conviction under said sections the court shall adjudge that the nuisance described in the indictment shall be abated or removed by the defendant within a time fixed by the court, and, if the nuisance described in the indictment is of a recurring character, that such defendant shall keep such nuisance abated; and whenever the defendant so convicted fails, neglects, or refuses to abate the nuisance described in the indictment, as ordered by the court, or, if the nuisance is of a recurring character, fails, neglects or refuses to keep the same abated, proceedings as for contempt of court may be instituted against the defendant so convicted and all others assisting in or conniving at the violation of such order, and the court may issue an order to the sheriff to execute the order of abatement at the cost and expense of the defendant. [O. L., v. 97, p. 310.]

See Smith vs. State, 22 O. S., 539.

Sec. 6920. [Nuisances where committed; continuance of a separate offense.] An offense charged under either of said sections shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby; and the continuance of any nuisance for five days after prosecution commenced therefor shall be deemed an additional offense. [O. L., v. 63, p. 102.]

Sec. 6920a. [County inspector of nuisances; appointment; powers; duties, etc.] The county commissioners of any county, whenever there is a violation of any of the provisions of either of said sections named in section 6919, are authorized to employ and reasonably compensate, at such times as they may deem proper, one inspector of nuisances who shall be vested with police powers, and shall be authorized to examine all cases of violation of the provisions of said sections, and for such purpose and for the purpose of obtaining evidence, he shall be fully authorized and empowered to enter upon the premises of any person in any county, and it shall be the duty of such inspector to make or cause to be made a complaint and to institute proceedings against any person or corporation violating the provisions of either of said sections, and such inspector shall not be required in the prosecution of any such proceedings to give security for cost. [O. L., v. 87, p. 350.]

Sec. 6920b. [Prosecuting attorney legal adviser of inspector; compensation.] The prosecuting attorney shall be the legal adviser of such inspector and the attorney in all such prosecutions, and in lieu of any percentage on fines and costs, he shall be allowed a compensation for such services by the county commissioners to be paid out of the county treasury. [O. L., v. 87, p. 351.]

Sec. 6920c. [Judgment for fine and costs; how collected.] A judgment for fine and costs rendered against any person or corporation for the violation of the provisions of either of said sections mentioned in said section 6919, when the

defendant has no property, or when the defendant has not a sufficient amount of property within the county upon which to levy to satisfy such judgment and costs, may be enforced and collected in the same manner as judgments are collected in civil cases, upon execution duly issued from any such court to any sheriff of any county of the state. [O. L., v. 87, p. 351.]

Sec. 6921. [Nuisances.] Whoever erects, continues, uses, or maintains, any building, structure, or place for the exercise of any trade, employment, or business, or for the keeping or feeding of any animal, which, by occasioning noxious exhalations, or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals, or the public, or causes or suffers any offal, filth, or noisome substance to be collected, or to remain, in any place, to the damage or prejudice of others, or the public, or obstructs or impedes, without legal authority, the passage of any navigable river, harbor, or collection of water, or corrupts, or renders unwholesome or impure, any water-course, stream, or water, or unlawfully diverts any such water-course from its natural course or state, to the injury or prejudice of others, or obstructs or incumbers, by fences, buildings, structures, or otherwise, any public ground or highway, or any street or alley of any municipal corporation, shall be fined not more than five hundred dollars. [O. L., v. 72, p. 112.]

Sec. 6922. [Creating artificial ponds, stagnant water.] Whoever builds, erects, continues, or keeps up, any dam or other obstruction, in any river or stream of water, and thereby raises an artificial pond, or produces stagnant water, which is manifestly injurious to the public health and safety, shall be fined not more than five hundred dollars. [O. L., v. 29, p. 144.]

Sec. 6923. [Unlawful deposit of dead animals, offal, etc., into or upon land or water; disposal of contents of privy vaults, etc.; deposit of contents of privy vaults in cities of

the second grade of the second class. (Dayton.)] Whoever puts the carcass of any dead animal, or the offal from any slaughter house, or butcher's establishment, packing house, or fish house, or any spoiled meat, or spoiled fish, or any putrid substance, or the contents of any privy vaults, upon or into any lake, river, bay, creek, pond, canal, road, street, alley, lot, field, meadow, public ground, market space or common, and whoever being the owner or occupant of any such place, knowingly permits any such thing to remain therein, to the annoyance of any of the citizens of this state, neglects or refuses to remove or abate the nuisance occasioned thereby, within twenty-four hours after knowledge of the existence of such nuisance upon any of the above described premises, owned or occupied by him, or after notice thereof in writing from any road superintendent, constable, trustee, or health officer of any municipal corporation or township in which such nuisance exists, or from a county commissioner of such county, shall be fined not more than fifty dollars nor less than ten dollars, and pay the cost of prosecution, and in default of the payment of said fine and cost, be imprisoned not more than thirty days, but the provisions hereinbefore made shall not prohibit the depositing of the contents of privy vaults and catch basins into trenches or pits not less than three (3) feet deep, excavated in any lot, field or meadow, the owner thereof consenting, outside the limits of any municipal corporation, and not less than thirty rods distant from any dwelling, well or spring of water, lake, bay or pond, canal, run, creek, brook or stream of water, public road or highway; provided, that said contents deposited in said trenches or pits are immediately thereafter covered with dry earth to the depth of at least twelve inches; nor shall said provisions prohibit the depositing of said contents into furrows situate and distinct, as specified for said trenches or pits; provided, the same are immediately thereafter wholly covered with dry earth by plowing or otherwise; and, provided also, that the owner or occupant of the land in which said

furrows are plowed consents, and is a party thereto; provided, also, that the board of health of any municipal corporation may allow said contents to be deposited within corporate limits into trenches or pits or furrows, situate, distant and to be covered as aforesaid. Provided further, that in cities of the second grade of the second class having and maintaining a crematory, the contents of privy vaults in said cities and towns shall be deposited at said crematory and whoever shall haul away and deposit the contents of any such privy vault, in any such municipal corporation, at any other place than at such crematory, shall be fined not more than fifty dollars nor less than ten dollars, and pay the cost of prosecution, and in default of the payment of said fine and costs, be imprisoned not more than thirty days. [O. L., v. 98, p. 339.]

Where a city, upon the payment of an annual fee of ten dollars, has issued a license to a person authorizing him to carry on the occupation of privy vault cleaner in such city, for the period of one year, and where such city requires him to obtain a permit from the board of health before cleaning a privy vault, it is unreasonable and unlawful for such board of health to exact the payment of a fee of twenty-five or fifty cents for such permit. Toledo v. Buechele, 10 O. C. D., 280.

Payment is involuntary where a general objection is made to payment and the licensee is threatened with arrest and revocation of his license, and recovery of the money paid can be had. *Id.*

R. S. 5848, relative to the statute of limitation for recovery of illegal taxes and assessments, does not apply to this illegal exaction of fees. *Id.*

Inasmuch as the duty devolves upon health officers to make some examination of the premises from which it is proposed to remove the contents of privy vaults, and afterwards to see that the work has been properly done, and then to see that the premises are properly disinfected, an ordinance providing a reasonable charge for such supervision, to be paid by persons engaged in the work of cleaning vaults, in addition to the regular license fee, together with a charge for collecting and the service of issuing the permit, would be legal. Toledo v. Buechele, 11 O. C. D., 479.

Charging the owner, occupant, or the municipal corporation for a permit issued to a vault cleaner, is illegal. Toledo v. Buechele, 11 O. C. D., 479; affirmed without report. 65 O. S., 603.

Sec. 6923a. [Bodies of animals dying from contagious diseases must be burned or buried.] The bodies of all animals dying from contagious diseases shall be burned, or buried at least four feet below the surface of the ground

by the owner thereof. Any such owner permitting such dead animals to remain unburned, unburied, or neglecting, or refusing to comply with the provisions of this section within twenty-four hours after having knowledge of the existence of such dead animals, or after notice thereof, in writing from the trustees of the township in which said dead animals may be found, it shall be the duty of said trustees to proceed to dispose of such dead animals as provided in this section, and such owner, so neglecting or refusing shall be fined in any sum not less than five dollars, nor more than twenty dollars, together with the cost of the suit, and all necessary expenses incurred by said trustees in disposing of such animals. Action to recover fines, costs, and expenses as herein provided, shall be brought upon complaint of said trustees before any justice of the peace, in the township in which such owner resides. Provided, that the dead bodies of such animals may be removed to a fertilizing establishment, if removed in a water-tight tank. [O. L., v. 88, p. 188.]

Under legislative acts empowering city councils to make all needful regulations to promote the public health, prevent the prevalence of disease, and abate nuisances, city councils may enact ordinances prohibiting the removing or carrying through the public streets dead animals without a permit of the board of health; and may make contracts with persons for the removal of all dead animals from the public streets. Morgan v. Cincinnati, 12 W. L. B., 41.

FIREARMS AND TOY PISTOLS.

Sec. 6986a. [Penalty for selling or giving, etc., firearms to minors.] Whoever sells, barters, or gives away to any minor under the age of fourteen years, any air-gun, musket, rifle-gun, shot-gun, revolver, pistol or other firearm of any kind or description whatever, or ammunition for the same or whoever being the owner, or having charge or control of any such air-gun, musket, rifle-gun, shot-gun, revolver, pistol, or other firearm knowingly permits the same to be used by such minor, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any

sum not exceeding one hundred dollars, or be imprisoned in jail not exceeding thirty days, or both. [77 v. 79.]

Sec. 6986b. [Unlawful to sell toy pistols to minors under fourteen years; penalty.] It shall be unlawful for any firm, company or person in the state of Ohio, to sell or exhibit for sale any pistol, manufactured out of any metallic or hard substance, commonly known as the "toy pistol," to a minor under the age of fourteen years; any firm, company or person violating the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than fifty dollars, or be imprisoned not less than ten days nor more than twenty days, or both, and shall be liable to a civil action in damages to any person injured by such sale. [80 v. 222.]

DIVISION 8.

EMPLOYMENT OF MINOR CHILDREN.

To provide a complete system of certificates by which employers can determine the age of minor laborers, and to amend and repeal certain statutes of Ohio.

Section 1. [Conformity with Compulsory Education law.] That section 1, 2 and 3 of an act entitled "An act to amend sections 1, 2 and 3 of an act entitled 'An act to regulate the employment of minors and to repeal sections 6986, Revised Statutes, passed April 25, 1891; 6986aa, Revised Statutes, passed March 21, 1887; 6986bb, Revised Statutes, passed April 27, 1885; 6986c, Revised Statutes, passed April 27, 1885,' passed April 19, 1898, as amended May 12, 1902, relative to the employment of minors. Relating to a complete system of certificates by which employers can determine the age of minor labor. To make the minor labor law conform with the compulsory education law and to provide a way to determine the physical fitness of minor labor under 16 years of age," passed April 23, 1904; and that section 4 of the aforesaid act, passed April 19, 1898, be amended so as to read as follows:

Sec. 1. [Minimum age; fourteen to sixteen years; age and schooling certificate; where certificate filed; authority of truant officer; return of certificate, etc.] No person, firm, company or corporation operating a factory, workshop, business office, telephone or telegraph office, restaurant, bakery, hotel, apartment house, mercantile or other establishment shall at any time employ, permit or suffer a child under the age of fourteen years to work in or in connection with any of the aforesaid establishments, nor in the distribution or transmission of merchandise or messages; nor shall a child between fourteen and sixteen years of age be employed, permitted or suffered to work in or in connection

with any of the aforesaid establishments, nor in the distribution or transmission of merchandise or messages, without first procuring from the proper authority the age and schooling certificate prescribed in section 4022-2 of the Revised Statutes of Ohio. The aforesaid certificate shall be filed in the office of the establishment in which or in connection with which the child works, and shall be produced for inspection upon request of the chief or district inspector of workshops and factories, or a truant officer. On termination of the employment or service of a child whose certificate is filed as aforesaid, the certificate of said child shall be forthwith returned by the person or agent having charge of or the management of any of the aforesaid establishments to the superintendent of public schools, or such other person who, acting under legal authority, may have issued the aforesaid certificate.

Nor shall a boy under sixteen years of age, nor a girl under eighteen years of age be employed, permitted or suffered to work in or in connection with any of the aforesaid establishments, nor in the distribution or transmission of merchandise or messages, more than forty-eight hours in any one week, nor more than eight hours in any one day; nor before the hour of seven o'clock in the morning, nor after the hour of six o'clock in the evening, and every such minor shall be entitled to no less than thirty minutes for meal time, but such meal time shall not be included as a part of the work hours of the week or day.

Every person or agent having charge of or the management of any of the aforesaid establishments shall keep a correct record in which shall be recorded the name, birthplace, date of birth, and place of residence of every boy between fourteen and sixteen years of age and every girl between fourteen and eighteen years of age, and shall post in a conspicuous place in every room where such minors work a printed notice stating the maximum number of work hours a day and week; the notice shall be formulated by the chief inspector of workshops and factories, and ap-

proved by the attorney general, and shall be furnished by the chief inspector upon application.

Failure to produce for inspection the age and schooling certificate, together with the aforesaid record, shall be prima facie evidence of the illegal employment or service of any child whose age and schooling certificate is not produced or whose record is not correctly kept.

Any child working in or in connection with any of the aforesaid establishments, or in the distribution or transmission of merchandise or messages, who appears to the inspector of workshops and factories to be under the legal age, or who refuses to give to the inspector his or her name, age and place of residence, shall be forthwith conducted by the inspector to the office of the judge of the juvenile or probate court for examination. If the inspector is in doubt as to the physical fitness of a boy under sixteen years of age, or a girl under eighteen years of age found working in or in connection with any of the aforesaid establishments, or in the distribution or transmission of merchandise or messages, he shall require a certificate signed by a medical officer of the board of health certifying that such child is of sound health and physically able to perform the work or service he or she is required to do, and every such health certificate shall be signed by the child in whose name it is issued in the presence of the officer issuing the same, and which examination shall be made and certificate issued without any expense whatever to said child. [O. L., 99 v. 31.]

Sec. 2. [Minimum age for certain occupations.] No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations: Sewing machine belts, in any workshop or factory or assisting in sewing machine belts in any workshop or factory in any capacity whatever; adjusting any belt to any machinery; oiling, or assisting in oiling, wiping or cleaning machinery; operating, or assisting in operating circular or band saws, wood-shapers, wood-jointers, planers, sand-

paper or wood-polishing machinery; job or cylinder printing presses operated by power other than foot; emery or polishing wheels used for polishing metal; wood-turning or boring machinery; stamping machines used in sheet metal and tinware manufacturing; stamping machines in washer and nut factories; corrugating rolls, such as are used in roofing and washboard factories; steam boilers, steam machinery, or other steam generating apparatus; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling mill machinery, punches or shears; washing, grinding, or mixing mills; calender rolls in rubber manufacturing; laundering machinery; passenger or freight elevators; nor in any capacity in preparing any composition in which dangerous or poisonous acids are used; manufacture of paints, colors or white lead; dipping, dyeing or packing matches; manufacturing, packing, or storing powder, dynamite, nitro-glycerine, compounds, fuses or other explosives; manufacture of goods for immoral purposes; nor as pin boys in bowling alleys; nor in or about any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled; nor in any hotel, theater, concert hall, drug store, saloon, or place of amusement wherein intoxicating liquors are sold; nor in any other employment that may be considered dangerous to their lives and limbs, or where their health may be injured or morals depraved; nor shall females under the age of sixteen years be employed in any capacity where such employment compels them to remain standing constantly; nor in assorting, manufacturing or packing tobacco. [O. L., 99 v. 32.]

Sec. 3. [Penalty for violation; mayor or police judge.] Any person, firm, company or corporation who shall employ, permit or suffer any child to work contrary to the provisions of this act, or who shall violate any of the provisions thereof, shall, upon conviction, be fined not less than twenty-five dollars, nor more than fifty dollars, and all fines collected under this act shall inure to the benefit

of the school fund of the district where the offense was committed.

Any justice of the peace, police judge, or mayor of any city or village, shall have the same jurisdiction provided in section 3718a of the Revised Statutes of Ohio in all cases of prosecution for the violation of any of the provisions of this act. [O. L., 99 v. 32.]

Sec. 4. [Eight female visitors; compensation of visitors; traveling expenses, etc.] The chief inspector of workshops and factories shall, with the approval of the governor, designate eight visitors who shall be women and shall make such rules and regulations for their direction and guidance as shall secure uniformity of action and proceedings throughout the state. Such visitors shall receive the same compensation as the district inspectors of workshops and factories, payable in the same manner, and the necessary traveling expenses incurred by such visitors shall be paid in the same manner and subject to the same limitations as are authorized and imposed by section 4238j, Revised Statutes, as to such district inspectors. Such visitors shall visit all shops and factories in their respective districts in which women or children are employed, including mercantile establishments as often as possible, to see that all the provisions and requirements of this act relating to the employment of women or children are strictly observed and carried out; they shall carefully inspect the sanitary condition of the same and they shall examine the system of sewage in connection with such shops, factories and establishments, the situations and conditions of water-closets or urinals in and about such shops and factories for the use of women or children and also the system of heating, lighting and ventilating all rooms of such shops and factories wherein women or children are employed at daily labor; and also the means of exit from all such places in case of fire or other disaster; and also all belting, shafting, gearing, elevators, drums and machinery of every kind and description in and about such shops and factories and see that the same

are not located so as to be dangerous to such women or children so employed when engaged in their ordinary duties, and that the same, as far as practicable, are securely guarded and that every vat, pan or structure filled with molten metal or hot liquid shall be surrounded with proper safeguards for preventing accident or injury to women or children employed in such shop or factory; and that all such are in proper sanitary condition and are adequately provided with means of escape in case of fire or other disaster. Such visitors shall have entry into all shops, factories and mercantile establishments including all public institutions of the state which have shops and factories or either, at any reasonable time, and it shall be unlawful for the proprietor, agent or servants in any such factories or shops to prevent, at reasonable hours, their entry into such shops and factories for the purpose of such inspection. Such visitors, if they find upon such inspection, that any of the provisions of this act or any of the acts relating to buildings, factories or to the employment of women or children are being violated or that the heating, lighting, ventilation or sanitary arrangements for women and children of any shop, factory or mercantile establishment are such as to be injurious to the health of such women or children employed or residing therein, shall notify the chief inspector of workshops and factories who may notify the owner, proprietor or agent of such shop, factory or mercantile establishment as provided in section 3248-f Revised Statutes, and may proceed to prosecute such violation of the law as therein provided. The chief and all district inspectors shall have authority, the same as is vested in the truant officer of any school district, to enforce school attendance of any child found violating the school laws, or, he shall make complaint of such violation to such truant officer or to the clerk of the board of education in said district. [O. L., 99 v. 33.]

Sec. 2. [Repeal.] That original sections 1, 2 and 3 as amended, and original section 4, and original sections 1, 2 and 3 of an act entitled, "An act to prevent the engagement

of children at such employment whereby their lives and limbs may be endangered, or their health injured, or their morals likely to be impaired," be, and the same are hereby repealed. This act shall take effect and be in force on and after July 1, 1908. [O. L., 99 v. 30.]

DIVISION 9.

REGULATION OF THE SALE OF POISONS AND DRUGS.

(4238-29.) **Section 1. [Regulating the sale of poisons.]** It shall be unlawful for any person to knowingly sell or deliver to any minor under sixteen years of age, except upon the written order of an adult, or to sell or to deliver to any person, any of the following described substances, or any poisonous compound, poisonous combination or poisonous preparation thereof, to-wit: The compounds and salts of antimony, arsenic, chromium, copper, lead, mercury, zinc, the concentrated mineral acids, oxalic and hydrocyanic acids and their salts, yellow phosphorus, carbolic acid, the essential oils of almonds, penny royal, tansy and savin, croton oil, creosote, chloroform, chloral hydrate, cantharides, or any aconite, belladonna, bitter almonds, colchicum, cotton root, cocculus indicus, conium, cannabis, indica, digitalis, hyoscyamus, ignatia, lobelia, nux vomica, opium, physostigma, phytolacca, strophanthus, stramonium, veratum viride, or any of the poisonous alkaloids or alkaloidal salts or other poisonous principles derived from the foregoing, or any other poisonous alkaloids or their salts or any other virulent poison, except in the manner following:

It shall first be learned by due inquiry that the person to whom delivery is made is aware of the poisonous character of the substance, and that it is desired for a lawful purpose, and the box, bottle or other package shall be plainly labeled with the name of the substance, "Poison," and the names of two or more substances which may be used as antidotes. And before delivery shall be made of any of the foregoing substances, there shall be recorded in a book [kept] for that purpose the name of the article, the quantity delivered, the purpose for which it is alleged to

be used, the date of delivery, the name and address of the purchaser, and the name of the dispenser, which book shall be preserved for at least five years, and shall at all times be open to inspection by the proper officers of the law. [95 v. 280.]

(4238-30.) **Sec. 2. [Exceptions.]** The provisions of section 1 of this act shall not apply to articles dispensed to or upon the order or prescription of persons believed by the dispenser to be lawfully authorized practitioners of medicine or dentistry and the record of sale and delivery above mentioned shall not be required of manufacturers and wholesalers who shall sell any of the foregoing substances at wholesale, but the box, bottle or other package containing such substance when sold at wholesale, shall be properly labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler; nor shall it be necessary to place a poison label upon, nor to record the delivery of the sulfid of antimony, or the oxid or carbonate of zinc, or of colors ground in oil, and intended for use as paints, or calomel, paregoric, or other preparations of opium containing less than two grains of opium to the fluid ounce, nor in the case of preparations containing any of the substances named in section one of this act when a single box, bottle or other package, or when the bulk of one-half fluid ounce or the weight of one-half avoirdupois ounce, does not contain more than an adult medicinal dose of such poisonous substance; nor in case of preparations recommended in good faith for diarrhoea and cholera, when each bottle or package is accompanied by specific directions for use and a caution against habitual use; nor in the case of liniments and ointments when plainly labeled "For external use only." Nor in the case of preparations put up and sold in the form of pills, tablets or lozenges and intended for internal use, where the dose recommended does not contain more than ¼ of an adult medicinal dose of such poisonous substance.

(4238-31.) **Sec. 3. [What may be sold only upon prescription.]** It shall be unlawful for any person to dispense,

sell or deliver to any person, any salts of cocaine, morphine, or its salts, or any of the alkaloids or salts of alkaloids of opium, except upon the written prescription of a legally qualified physician, or dentist, such prescription not to be refilled except upon the written order of the [person] prescribing the same; except, however, that sulphate of morphine may be sold by a registered pharmacist or assistant pharmacist in original packages containing not less than one-eighth ounce when registered in accordance with the provisions of section one of this act. [95 v. 282.]

(4238-32.) **Sec. 4. [Penalty.]** The penalty for the violation of any of the provisions of any section of this act shall be not less than ten dollars nor more than fifty dollars for each separate offense. [95 v. 282.]

(4238-33.) **Section 1. [Cocaine; restriction of the selling or giving away of.]** Whoever sells, barters or gives away any quantity of cocaine, except upon the prescription of a physician, duly licensed under the laws of the state of Ohio, or sells, barters or gives away any quantity of cocaine to any person or persons without having first marked the word "poison" upon the label or wrapper containing the same, and registered in a book to be kept by him or her for that purpose, the day and date on which it is sold, bartered or given away, the name and address of the physician who prescribed the same, the quantity thereof, the name, age, sex and color of the person obtaining the same, the purpose for which it is required and the name and place of abode of the person or persons for which the same is intended, shall be fined not more than five hundred dollars nor less than fifty dollars, but the provisions of this act do not extend to any person, persons, firm or corporation engaged in selling drugs and medicines at wholesale to sell any quantity of cocaine to another person, persons, firm or corporation engaged in selling drugs or medicines at wholesale or retail, in accordance with the laws governing such business. [95 v. 145.]

(4238-34.) Section 1. [Unlawful disposition of drugs, medicines, etc.] That any person who shall by himself, his servant or agent, or as the servant or agent of any other person, leave, throw or deposit, or upon the doorstep or premises owned or occupied by another, or who shall deliver to any child under fourteen years of age, any patent or proprietary medicine, or any preparation, pill, tablet, powder, cosmetic, disinfectant or antiseptic, or any drug or medicine that contains poison, or any ingredient that is deleterious to health, as a sample, or in any quantity whatever for the purpose of advertising, shall be deemed guilty of a misdemeanor. [95 v. 146.]

(4238-35.) Sec. 2. [Definition of terms.] The terms drug, medicine, patent or proprietary medicine, pill, tablet, powder, cosmetic, disinfectant or antiseptic, as used in this act, shall include all remedies for internal or external use, either in packages or bulk, simple, mixed or compounded. [95 v. 146.]

(4238-35.) Sec. 3. [Penalty.] Whoever violates the provisions of section one of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding one hundred dollars, nor less than twenty-five dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both, for each and every violation. [95 v. 146.]

Sec. 6990. [Administering anæsthetics without the presence of a witness.] Whoever uses upon another an anæsthetic, unless at its administration, and during the whole time the person is wholly or partly under the direct influence of it, there is present a third person competent to be a witness, shall be fined not more than twenty-five nor less than five dollars. [73 v. 154, §§ 1, 2.]

Sec. 6958. [Depositing poison in thoroughfares.] Whoever leaves any poison, or any substance containing poison, in any common, street, alley, lane or thoroughfare of any kind, or any yard or inclosure than the yard or inclosure occupied by such person, shall be fined not more than fifty

nor less than five dollars, or imprisoned not more than thirty nor less than five days, or both, and shall be liable for all damages sustained thereby. [O. L., 74 v. 13, sec. 1.]

(7017-1.) Sec. 1. **[Sale and use of opium; keeping a place therefor, or resorting to such place, misdemeanor.]** Be it enacted, that every person who opens or maintains, to be resorted to by other persons, any place where opium, or any of its preparations is sold or given away, to be smoked at such place, any person who at such place sells or gives away any opium or its preparations, to be there smoked or otherwise used, any person who visits or resorts to any such place for the purpose of smoking opium, or its said preparations, shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine not exceeding five hundred ($500) dollars, or by imprisonment in the county jail not exceeding three months or by both such fine and imprisonment. [O. L., 82 v. 49.]

DIVISION 10.

FOODS, FOOD PRODUCTS, DRUGS AND POWER AND DUTIES OF DAIRY AND FOOD COMMISSIONER.

(1536-756.) R. S. Sec. 2139. [Inspectors; appointment and duties; record of meat and milk dealers; permit; examination of cows; certificate; contagious disease in family of dairyman, etc.; may make and enforce orders.] The board of health may appoint such number of inspectors of dairies, slaughter houses, shops, wagons, appliances, food and water supplies for animals, milk, meat, butter, cheese and substances purporting to be butter or cheese, or having the semblance of butter or cheese and such other persons as may be necessary to carry out the provisions of this chapter, define their duties, and fix their compensation, and the health officer may be appointed and authorized by said board to perform all the duties of such inspectors; and such inspectors may, for such purpose, enter any house, vehicle, or yard; and the board of health shall keep for public inspection a record of the names, residences, and places of business of all persons engaged in the sale of milk or meat, and may require permits, to be renewed semi-annually and for which a charge of not more than fifty cents may be made, after inspection, to vend either milk or meat, and the board may refuse to grant such permit or revoke one already given if, upon inspection, the cows or milk are found to be kept in an unsanitary condition; and the board may require a certificate from a licensed veterinarian showing the cows furnishing milk brought for sale within its jurisdiction are free from tuberculosis or other dangerous disease, and should scarlet fever, typhoid or other dangerous contagious or infectious disease occur in the family of any dairyman or among his employes, or in any house in which milk is kept for sale, it shall be the duty of such

dairyman or vender of such milk to immediately notify the health officer of the city, village or hamlet in which such milk is sold, or is offered for sale, of the facts of the case, and the health officer may order the sale of such milk stopped, pending an investigation to be made without delay, and for such time thereafter as the board of health may require; and the board of health may make and enforce such orders as it may deem necessary to prevent the sale of impure, adulterated and unwholesome milk, or milk liable to carry disease. [O. L., v. 95, p. 433.]

See Klopfer case, p. 178, 9 N. P. N. S., 33.

An ordinance providing that no person shall sell milk in a city without a permit from its acting board of health, and authorizing examination and inspection of milk sold in the city, the places where produced and the cattle producing it, and prescribing regulations regarding the health of employes, etc., is a health ordinance exclusively and within Sec. 1692, Rev. Stat., providing for boards of health.

The requirement that a fee of one dollar be paid and a tag attached to the wagon before a permit will be granted, is not in violation of Sec. 2669, Rev. Stat. (1536-327), exempting venders from selling their own products. The ordinance is constitutional. Walton v. Toledo, 23 C. C., 547; affirmed 69 O. S., 588.

Sec. 1. [Adulteration and misbranding prohibited.] That no person shall, within this state, manufacture for sale, offer for sale, sell, deliver or have in his possession with intent to sell or deliver any drug or article of food which is adulterated, within the meaning of this act; that no person shall, within this state, offer for sale, sell, deliver or have in his possession with intent to sell or deliver any drug or article of food which is misbranded, within the meaning of this act. [O. L., 99 v. 257.]

Sec. 3. [Deemed adulterated.] An article shall be deemed to be adulterated within the meaning of this act:

(a) **[Drugs.]** In the case of drugs: (1) If, when sold under or by a name recognized in the eighth decennial revision of the United States pharmacopœia, or the third edition of the National Formulary, it differs from the standard of strength, quality or purity laid down therein; (2) if, when sold under or by a name not recognized in the eighth

decennial revision of the United States pharmacopœia, or the third edition of the National Formulary, but which is found in some other pharmacopœia, or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work; (3) if its strength, quality or purity falls below the professed standard under which it is sold; (4) if it is an imitation of, or offered for sale under the name of another article; (5) if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package; (6) if it contains any methyl or wood alcohol.

(b) **[Food, drink.]** In the case of food, drink, confectionery or condiment: (1) If any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its quality, strength or purity; (2) if any inferior or cheaper substance or substances have been substituted wholly, or in part, for it; (3) if any valuable or necessary constituent or ingredient has been wholly, or in part, abstracted from it; (4) if it is an imitation of, or is sold under the name of another article; (5) if it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance or article, whether manufactured or not or, in the case of milk, if it is the product of a diseased animal; (6) if it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) if it contains any added substance or ingredient which is poisonous or injurious to health; (8) if, when sold under or by a name recognized in the eighth decennial revision of the United States pharmacopœia, or the third edition of the National Formulary, it differs from the standard of strength, quality or purity laid down therein; (9) if, when sold under or by a name not recognized in the eighth decennial revision of the United States pharmacopœia, or the third edition of the National Formulary, but is found in some other pharmacopœia, or other standard work on materia medica, it

differs materially from the standard of strength, quality or purity laid down in such work; (10) if the strength, quality or purity falls below the professed standard under which it is sold; (11) if it contains any methyl or wood alcohol.

(c) **[Flavoring extract.]** In the case of flavoring extracts: (1) If any substance or substances have been mixed with it so as to lower or depreciate or injuriously affect its quality, strength or purity; (2) if any inferior or cheaper substance or substances have been substituted wholly, or in part, for it; (3) if any valuable or necessary constituent or ingredient has been wholly, or in part, abstracted from it; (4) if it is an imitation of, or is sold under the name of another article; (5) if it is colored whereby damage or inferiority is concealed, or if it by any means is made to appear better or of greater value than it really is; (6) if it contains any added substance or ingredient which is poisonous or injurious to health; (7) if the strength, quality or purity falls below the professed standard under which it is sold; (8) if it contains any methyl or wood alcohol; (9) if, when sold under or by any one of the following names it differs from the standard hereby fixed therefor; (1) Almond extract shall be the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and shall contain not less than one (1) per cent. by volume of oil of bitter almonds; (2) anise extract shall be the flavoring extract prepared from oil of anise, and shall contain not less than three (3) per cent. by volume of oil of anise; (3) celery seed extract shall be the flavoring extract prepared from celery seed or the oil of celery seed, or both, and shall contain not less than three-tenths (0.3) per cent. by volume of oil of celery seed; (4) cassia extract shall be the flavoring extract prepared from oil of cassia, and shall contain not less than two (2) per cent. by volume of oil of cassia; (5) cinnamon extract shall be the flavoring extract prepared from oil of cinnamon, and shall contain not less than two (2) per cent. by volume of oil of cinna

mon; (6) clove extract shall be the flavoring extract prepared from oil of cloves, and shall contain not less than two (2) per cent. by volume of oil of cloves; (7) ginger extract shall be the flavoring extract prepared from ginger, and shall contain in each one hundred (100) cubic centimeters the alcohol-soluble matters from not less than twenty (20) grams of ginger; (8) lemon extract shall be the flavoring extract prepared from oil of lemon, or from lemon peel or both, and shall contain not less than five (5) per cent. by volume of oil of lemon; (9) terpeneless extract of lemon shall be the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving terpeneless oil of lemon in dilute alcohol, and shall contain not less than two-tenths (0.2) per cent. by weight of citral derived from oil of lemon; (10) nutmeg extract shall be the flavoring extract prepared from oil of nutmeg, and shall contain not less than two (2) per cent. by volume of oil of nutmeg; (11) orange extract shall be the flavoring extract prepared from oil of orange, or from orange peel, or both, and shall contain not less than five (5) per cent. by volume of oil of orange; (12) terpeneless extract of orange shall be the flavoring extract prepared by shaking oil of orange with dilute alcohol, or by dissolving terpeneless oil of orange in dilute alcohol and shall correspond in flavoring strength to orange extract; (13) peppermint extract shall be the flavoring extract prepared from oil of peppermint or from peppermint, or both, and shall contain not less than three (3) per cent. by volume of oil of peppermint; (14) rose extract shall be the flavoring extract prepared from otto of roses, with or without rose petals, and shall contain not less than four-tenths (0.4) per cent. by volume of otto of roses; (15) savory extract shall be the flavoring extract prepared from oil of savory, or from savory, or both, and shall contain not less than thirty-five hundredths (0.35) per cent. by volume of oil of savory; (16) spearmint extract shall be the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and shall contain not less than three (3) per

cent. by volume of oil of spearmint; (17) star anise extract shall be the flavoring extract prepared from oil of star anise, and shall contain not less than three (3) per cent. by volume of oil of star anise; (18) sweet basil extract shall be the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and shall contain not less than one-tenth (0.1) per cent. by volume of oil of sweet basil; (19) sweet marjoram extract, marjoram extract, shall be the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and shall contain not less than one (1) per cent. by volume of oil of marjoram; (20) thyme extract shall be the flavoring extract prepared from oil of thyme, or from thyme, or both, and shall contain not less than two-tenths (0.2) per cent. by volume of oil of thyme; (21) tonka extract shall be the flavoring extract prepared from tonka bean, with or without sugar or glycerin, and shall contain not less than one-tenth (0.1) per cent. by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof; (22) vanilla extract shall be the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and shall contain in one hundred (100) cubic centimeters the soluble matters from not less than ten (10) grams of the vanilla bean; (23) wintergreen extract shall be the flavoring extract prepared from oil of wintergreen, and shall contain not less than three (3) per cent. by volume of oil of wintergreen. All of said flavoring extracts shall be a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, and shall conform in name to the plant used in its preparation. [O. L., 100 v. 105.]

Sec. 3a. [When articles deemed to be misbranded.] An article shall be deemed to be misbranded within the meaning of this act:

(a) In the case of drugs: (1) If the package fails to bear a statement on the label of the quantity or proportion of any grain or ethyl alcohol, morphine, opium, cocaine,

heroine, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative or preparation of any such substances contained therein, Provided, that the provisions of this section shall not apply to the prescriptions of regularly licensed physicians, dentists and doctors of veterinary medicine, nor to such drugs and preparations as are officially recognized in the eighth decennial revision of the United States pharmacopœia, or the third edition of the National Formulary, and which are sold under the name by which they are so recognized; (2) if the package containing it or any label thereon shall bear any statement, design or device regarding it or the ingredients or substances contained therein, which shall be false or misleading in any particular.

(b) In the case of food, drink, flavoring extracts, confectionery or condiment: (1) If the package fails to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroine, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substances contained therein; (2) if it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so; (3) if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package; (4) in case of any flavoring extract, for which no standard exists, if the same is not labeled "artificial" or "imitation" and the formula printed in the same manner hereinafter provided for the labeling of "compounds" or "mixtures" and their formulæ; (5) if the package containing it or any label thereon shall bear any statement, design or device regarding it or the ingredients or substances contained therein, which shall be false or misleading in any particular: Provided, that the provision of this act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food or drink, if each and every package sold or offered for sale be distinctly

labeled in words of the English language as mixtures or compounds, with the name and percentage, in terms of 100 per cent., of each ingredient therein. The word "compound" or "mixture" shall be printed in letters and figures not smaller in either height or width than one-half the largest letter upon any label on the package and the formula shall be printed in letters and not smaller in either height or width than one-fourth the largest upon any label on the package and such compound or mixture must not contain any ingredient that is poisonous or injurious to health. [O. L., v. 99, p. 258.]

Holtgreive v. State, 7 N. P., 389, is a case on error from the justice of the peace, wherein the reviewing court held that an act (87 O. L., 51) to prevent deception in the sale of dairy products and to preserve the health, was constitutional.

MILK AND DAIRY PRODUCTS.

(4200-9.) Sec. 1. [Regulating the sale of milk; penalty.] That whoever by himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his custody or possession with intent to sell or exchange or exposes or offers for sale or exchange adulterated milk, or milk to which water or any foreign substance has been added, or milk from cows fed on wet distillery waste, or starch waste, or from cows kept in a dairy or place which has been declared to be in an unclean or unsanitary condition by certificate of any duly constituted board of health or duly qualified health officer, within the county in which said dairy is located, or from diseased or sick cows, shall for a first offense, be punished by a fine of not less than fifty nor more than two hundred dollars; for a second offense, by a fine of not less than one hundred dollars nor more than three hundred dollars, or by imprisonment in the jail or workhouse for not less than thirty nor more than sixty days; and for a subsequent offense, by a fine of fifty dollars, and by imprisonment in the jail or workhouse for not less than sixty days nor more than ninety days. [O. L., v. 99, p. 239.]

(4200-10.) **Sec. 2. [Pure milk.]** Whoever, by himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his custody or possession, with intent to sell or exchange, or exposes or offers for sale as pure milk, any milk from which the cream or part thereof has been removed, shall be punished by the penalties provided in the preceding section. [O. L., v. 86, p. 229.]

(4200-11.) **Sec. 3. [Skimmed milk.]** No dealer in milk, and no servant or agent of such a dealer, shall sell, exchange or deliver, or have in his custody or possession with intent to sell, exchange or deliver, milk from which the cream or part thereof has been removed, unless in a conspicuous place above the center, upon the outside of every vessel, can or package, from which or in which such milk is sold, the words "skimmed milk" are distinctly marked in uncondensed gothic letters not less than one inch in length. Whoever violates the provisions of this section shall be punished by the penalties provided in section one. [O. L., v. 86, p. 229.]

(4200-12.) **Sec. 4. [Adulterated milk defined.]** In all prosecutions under this chapter, if the milk is shown upon analysis to contain more than eighty-eight per cent. of watery fluid, or to contain less than 12 per cent. of solids, or to contain less than 3 per cent. of fats, it shall be deemed for the purpose of this chapter to be adulterated. [O. L., v. 97, p. 119.]

(4200-38.) **Sec. 9. [Sale of diluted milk; false accounts.]** No person or persons shall sell to any person, or deliver, or carry, or cause to be carried to any cheese or butter factory to be manufactured, any milk diluted with water or in any way adulterated, or from which any cream has been taken, or milk commonly known as "skimmed milk" or milk from which [the] part known as "strippings" has been withheld with the intent to defraud, or keeps or renders any false account of the quantity or weight of milk furnished

at or to any factory for manufacture or sold to any manufacturer. [O. L., v. 83, pp. 178, 180.]

(4200-39.) Sec. 10. [Impure and skimmed milk.] No person or persons shall sell, exchange, or offer for sale or exchange, any unclean, impure, unhealthy, unwholesome milk, or sell, exchange or offer for sale or exchange as "pure milk," milk diluted with water or milk known as skimmed milk. [O. L., v. 83, pp. 178, 180.]

(4200-40.) Sec. 11. [Milk falsely labeled.] No person or persons shall sell, exchange, expose, or offer for sale or exchange, have in his possession or dispose of in any manner, any milk which is falsely branded, labeled, marked or represented as to grade, quantity or place where produced or procured. [O. L., v. 83, pp. 178, 180.]

(4200-41.) Sec. 12. [Cows unhealthily fed.] No person shall keep cows for the production of milk for any purpose, in a cramped or unhealthy condition, or feed them on unhealthy food, or upon food that produces impure, unhealthy or unwholesome milk. [O. L., v. 83, pp. 178, 180.]

(4200-42.) Sec. 13. [Condensed milk.] No person shall manufacture, sell, exchange, expose or offer for sale or exchange, any condensed milk, unless the package, can, or vessel containing the same shall be distinctly labeled, stamped, or marked with its true name, brand, by whom and under what name made, and no condensed milk shall be made, exchanged, exposed or offered for sale or exchange, unless the same be made from pure, clean, healthy, fresh, unadulterated and wholesome milk, from which the cream has not been removed, or unless the proportion of milk solids contained in the condensed milk shall be in amount the equivalent of 12 per centum of milk solids in crude milk, and of such solids, 25 per centum shall be fat. [O. L., v. 83, pp. 178, 180.]

Sec. 1. [Regulating the filling and refilling of milk bottles and glass jars.] It shall be unlawful to fill or refill, with milk, cream or other milk product, any glass jar or bottle

having the name of any person, firm or corporation blown therein, with intent to sell or vend such milk, cream or other milk product, provided, that the provisions of this section shall not extend to the person, firm or corporation whose name is blown in such glass jar or bottle, or a duly authorized agent or employe thereof. [O. L., v. 99, p. 454.]

Sec. 2. [Cleaning milk bottles and jars.] It shall be unlawful to fill or refill, with milk, cream or other milk product, any glass jar or bottle, with intent to sell or vend such milk, cream or other milk product, unless such glass jar or bottle be first thoroughly cleansed and sterilized. [O. L., v. 99, p. 454.]

Sec. 3. [Penalty.] Any person or persons guilty of violating the provisions of the preceding section of this act shall be fined not more than one hundred dollars. [O. L., v. 99, p. 454.]

Sec. 6928. [Selling unwholesome provisions.] Whoever sells, or offers for sale, or has in his possession with a view to sell any kind of diseased, corrupted, adulterated, or unwholesome provisions, whether for meat or drink, without making the condition of the same known to the buyer, or whoever kills for the purpose of sale, any calf less than four weeks old, or sells, or has in his possession with intent to sell, the meat of any calf which he knows to have been killed when less than four weeks old, shall be fined not more than fifty dollars, or imprisoned twenty days, or both. [O. L., v. 92, p. 97.]

Sec. 6928-1. [Feeding unwholesome offal or flesh to swine, etc.] Whoever feeds to swine, or animals of any kind used for human food the flesh of any old horse, or the flesh of any animal which has become old, decrepit, infirm or sick, or of one that has died from such cause, or any offal or flesh that is putrid or unwholesome, shall be fined not more than two hundred dollars nor less than fifty, or imprisoned for the first offense not more than thirty days, or both, and for the second offense not more than six months, or both. [O. L., v. 92, p. 97.]

(1536-757.) R. S. Sec. 2140. [Places where meat, butter, cheese, etc., are made, subject to inspection; analysis of milk, butter, etc.] All dairies, including the cows, cow stables, milk-houses, and milk-vessels, the owners of which offer for sale within the limits of the corporation milk or butter manufactured by such owners, shall be subject to inspection by the inspectors, and also any manufactory of butter or cheese, or place where such substance or either of them are sold, shall be subject to inspection by the inspectors; the inspector may enter any place where milk is sold or kept for sale, and all carriages used for the conveyance of milk within the corporate limits; and also any manufactory or place where butter or cheese, or substances having the semblance of butter or cheese, are manufactured, or any place where such substances are sold, or kept for sale within the corporate limits; and whenever he has any reason to believe milk found therein is impure or adulterated, or any butter or cheese, or substances having the semblance of butter or cheese found therein contain any impure, unwholesome or deleterious substances, or is being sold or offered for sale under any false or deceptive name or designation, that any butter or cheese not made from pure cream or milk, or any substance having the semblance of butter or cheese, is being sold or offered for sale, without being branded or stamped, as required by section seven thousand and ninety, he shall take specimens thereof and subject them to satisfactory tests; or, if the board of health so direct, to chemical analysis, the result of which he shall record and preserve as evidence, and a certificate of such result, sworn to by the analyst shall be admissible in evidence in all prosecutions under this chapter, or any law of this state. [O. L., v. 95, p. 434.]

DAIRY AND FOOD COMMISSIONER.

(409-8.) R. S. Sec. 2. [General duties of himself and assistants.] It shall be the duty of said commissioner or assistant commissioner to inspect any articles of butter,

cheese, lard, syrup or other article of food or drinks, made or offered for sale in the state of Ohio, as an article of food or drink, and to prosecute or cause to be prosecuted, any person or persons, firm or firms, corporation or corporations engaged in the manufacture or sale of any adulterated article or articles of food or drink or adulterated in violation, or contrary to any laws of the state of Ohio. [O. L., v. 84, p. 205.]

(409-9.) **Sec. 3. [Powers.]** The said commissioner, or any assistant commissioner, or any inspector, of the dairy and food department shall have power in the performance of their duty, to enter into any creamery, factory, store, salesroom, drug store or laboratory, or place where they have reason to believe food or drink or linseed oil are made, prepared, sold or offered for sale, and to examine their books, and to open any cask, tub, jar, bottle or package, containing or supposed to contain any article of food or drink and examine or cause to be examined and analyzed the contents thereof, and it shall be the duty of any prosecuting attorney in any county of the state, when called upon by said commissioner or assistant commissioner, or any inspector, to render him any legal assistance in his power, to execute the laws, and to assist in the prosecution of cases arising under provisions of this act. [O. L., v. 97, p. 30.]

(4200-4.) **Sec. 1. [Adulterated articles not to be manufactured or sold.]** That no person shall, within this state, manufacture for sale, offer for sale, sell, deliver or have in his possession with intent to sell or deliver any drug or article of food which is adulterated, within the meaning of this act; that no person shall, within this state, offer for sale, sell, deliver or have in his possession with intent to sell or deliver any drug or article of food which is misbranded, within the meaning of this act. [O. L., v. 99, p. 257.]

(4200-5.) **Sec. 2. [Terms "drug" and "food" defined.]** The term "drug," as used in this act, shall include all medi-

cines for internal or external use or for inhalation, antiseptic, disinfectants and cosmetics. The term "food," as used herein, shall include all articles used for food, drink, flavoring extract, confectionery, or condiment by man, whether simple, mixed or compound. The term "flavoring extract," as used herein, shall include any article used as a flavor for foods or drinks, whether used or sold under the name of extract, flavor, essence, tincture, or any other name. [O. L., v. 98, p. 263.]

DIVISION 11.

RELATING TO THE DISEASES OF ANIMALS.

(4211-9.) Sec. 1. [Board of live stock commissioners; how constituted; duty as to extirpating diseases; officers and rules and regulations.] The Ohio state board of agriculture shall be and is hereby constituted the board of live stock commissioners for the promotion and protection of the live stock interests of the state and the prevention of the spread of infectious and contagious diseases among domestic animals and the extermination of the same; and to coöperate with the bureau of animal industry of the United States department of agriculture, in the suppression and extirpation of contagious and infectious diseases among domestic animals. The board may elect such officers as it may deem necessary, and shall have power in its organization and work to prescribe such rules and establish such regulations, not in conflict with law, as it may deem necessary, to secure strict quarantine, and otherwise prevent the spread of infectious and contagious diseases among live stock and extirpate the same so far as it may be able to do. [O. L., v. 95, p. 412.]

(4211-10.) Sec. 2. [Duty as to extirpating diseases.] The board of commissioners are authorized to use all proper means to prevent the spread of dangerous and fatal diseases among domestic animals, and to provide for the extirpation of such diseases; and in the event of any such contagious or infectious disease breaking out in this state, it shall be the duty of all persons owning or having in charge animals infected with the same, to immediately notify said board of commissioners, or some member thereof, of the existence of such disease, and thereupon it shall be the duty of said board immediately to cause proper examination thereof to be made by a competent veterinarian; and if said disease shall be found to be a dangerously contagious or

infectious malady, the board shall order the diseased animals, and such as have been exposed to the contagion, to be strictly quarantined in charge of such person as the board, or an authorized member thereof, shall designate, and to order any premises or farms where such disease exists, or has recently existed, to be put in quarantine, so that no domestic animal subject to such disease, be removed from or brought to, the premises or places so quarantined; and the board shall prescribe such regulations as they may deem necessary to prevent the contagion from being communicated in any way from the premises so quarantined. [O. L., v. 82, p. 176.]

(4211-11.) **Sec. 3. [Bodies of dead animals.]** The bodies of all dead animals shall be buried or burned by the owners thereof, as provided by law. [O. L., v. 82, p. 176.]

(4211-22.) **Sec. 4. [Duty of transportation companies; penalty for violation of such duty.]** It shall be the duty of all railway and other transportation companies bringing into and unloading in this state cattle, otherwise than as specified in section two [§(4211-20)] of this act, during the months above specified, to require a statement to be made in their shipping bills, showing in what state or territory the cattle shipped were wintered; and it shall be the duty of every railroad company bringing into this state cattle, which may unload such cattle for any other purpose than to be fed and watered as specified in section two [§(4211-20)] of this act, to leave at the office of such company nearest the point where such cattle may be unloaded, a copy for public inspection of the statement above required, showing where the same were wintered; and any company or corporation neglecting to comply with the provisions of this section, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars. [85 v. 83.]

(4211-23.) **Sec. 5. [Prosecution for offenses hereunder.]** Upon the request of the board of live stock commissioners it shall be the duty of the prosecuting attorney of any

county in which the suit may be brought to begin and prosecute any action for the violation of the provisions of this act and the rules and regulations of the board of live stock commissioners. Proceedings against any railway company under this act may be had in any county in this state through which any portion of such company's road may pass, or in which its principal office may be situated; and process may be served by leaving a copy at the office of such company within such county. [88 v. 353; 85 v. 83.]

(4211-24.) Sec. 1. **[Penalty for selling or failing to keep securely isolated horses, etc., affected with glanders.]** Any person owning or having in his charge any horse, mule or ass that he knows or has reason to believe is affected with the disease known as glanders or farcy, or that has been adjudged to be so affected by the state board of live stock commissioners, upon a report made to said board by a competent veterinary surgeon, in their employ, after a careful examination of such animal, who shall sell or otherwise dispose of, or secrete the same, or shall fail to keep such animal securely isolated so that contact with other horses, mules or asses shall not be possible, shall, upon conviction of either of said offenses, be fined in any sum not exceeding five hundred dollars, and shall moreover, be liable for all damages sustained by reason of the same. [85 v. 335.]

(4211-25.) Sec. 2. **[Appraisal and payment of compensation in case of destruction of such animals by order of live stock commission.]** In case the live stock commissioners shall order the destruction of any animal affected with glanders or farcy in the chronic stage of the disease, which may be adjudged capable of rendering some service, the board may cause the animal to be appraised, and order such compensation to be paid out on the order of the live stock commissioners on the warrants of the auditor of state out of any funds in the treasury to the credit of the live stock commission, as in the judgment of the commissioners may be just, not exceeding its cash value; provided the horse

was not diseased when passed in possession of the owner. [85 v. 335.]

(4211-26.) Sec. 3. [Penalty for suffering sheep affected with scab to run at large or for selling same, knowing, etc.] Any person owning or having in charge any sheep affected with foot-rot or scab who shall suffer the same to run upon any highway, common or other uninclosed ground, or shall sell such sheep, knowing or having reason to believe them to be diseased, without disclosing the fact to the purchaser, shall, upon conviction of either of said offenses, be fined in any sum not exceeding one hundred dollars, and be liable to parties injured for all damages sustained. [85 v. 335.]

See § 6855 as to allowing disease animals to run at large.

Sections 4211-19 to 4211-23 and 4212, Rev. Stat., providing that cattle from districts infected with Texas fever shall not be driven or shipped into the State except for watering or immediate slaughter, and imposing a penalty or rendering a violator liable to a civil action in damages therefor, constitute police regulations for the regulation of health and property and require a liberal construction. These sections apply to any person, owner, agent, or servant, or corporation, whether railroad, stockyard, or other company, bringing or causing to be brought into the State any forbidden cattle.

The liability of a stockyards company arising under these sections is a common law liability, and depends upon the fact whether or not the defendant had actual or constructive notice of the nature of the cattle and their place of wintering.

A stockyard company is not liable where the cattle shipped from the quarantined district were reloaded in another State, the ticks removed, and the placard "southern cattle" removed from the cars, where the company's agents examined the cattle for "ticks" and did not discover any.

A way-bill from the prohibited territory, not stamped "southern cattle," is not sufficient to put the company on inquiry, where the bill merely passes through the hands of an agent whose duty it is to copy the charges upon the company's books. Neal v. Stockyards Co., 12 O. Dec., 533.

(4215a-1.) Sec. 1. [Provision for reimbursement of expenses paid by persons injured by dog or cat afflicted with rabies; from what fund money to be drawn.] That any person who shall be bitten or injured by a dog or canine, cat or feline, or other animal, which at the time of the biting or injury to said person was suffering from or

afflicted with what is known as rabies, and which said bite or injury by said dog or canine, or other animal, cat or feline, caused said person to employ medical or surgical treatment, and required of said person the expenditure of money in the care and treatment resulting from said bite or injury, may present a detailed and itemized account of the actual expenses incurred and amount paid for medical and surgical attendance, verified by affidavit of said injured person, administrator or executor and attending physician; but if said injured person be a minor the said affidavit must be made by the parent of said minor or his duly appointed and qualified guardian, attending physician or administrator or executor. Said detailed statement as aforesaid must be presented within four months after the injury was received, at a regular meeting of the county commissioners of the county where the said injury was received. The county commissioners shall, within a reasonable time and not later than the third regular meeting after the presentation of said verified account as aforesaid, examine the same, and if found in whole or in part correct and just, may in their discretion order the payment thereof, or such parts as they may have found in their judgment correct and just to be paid out of the general fund of the county, but no one person shall receive for any one injury under this act a sum exceeding five hundred ($500.00) dollars. [O. L., v. 99, p. 82.]

(1536-100.) M. C. Sec. 7. [General powers of municipalities.] * * * All municipal corporations shall have the following general powers and council may provide by ordinance or resolution for the exercise and enforcement of the same.

¶ 10. [Animals running at large.] To regulate, restrain and prohibit the running at large, within the corporation, of cattle, horses, swine, sheep, goats, geese, chickens and other fowls and animals, and to impound and hold same, and on notice to the owners, to authorize the sale of the same for the penalty imposed by any ordinance, and the

cost and expense of the proceedings, and to regulate or prohibit the running at large of dogs, and provide against injury and annoyance therefrom, and to authorize the disposition of the same when running at large contrary to the provisions of any ordinance. [O. L., v. 97, p. 504.]

DIVISION 12.

RELATING TO DEAD BODIES AND EMBALMING.

(1470-1.) [Trustees of townships or cemetery associations may cause dead bodies to be removed in certain cases.] In all cases in which either the trustees of any township or the trustees or board of any cemetery association, incorporated or not, in Ohio, or both combined, shall have heretofore determined or shall hereafter determine to discontinue the use of any burial ground for such purposes, and there shall be opened for public use a burial ground in the near vicinity thereof, the said township trustees, or the said trustees or board of directors of such cemetery association, or both combined, may order and provide for the burial of all bodies remaining or being buried within said burial grounds so to be discontinued, and for the removal of all stones and monuments marking the graves thereof, and for the reinterment of said bodies and the re-erection of such stones and monuments in some suitable and public ground in the near vicinity, and pay for the same out of the township treasury; provided, however, that they shall cause notice first to be given to the family, friends or kindred of the deceased, if known to such board or boards, of the order for their removal and of the time within which, not less than thirty days, such removal must be made, and that it is desired that such removal be made by the friends or kindred of the dead, and if at the expiration of such time such removals have not been made, such boards may cause them to be made as aforesaid. [O. L., v. 73, p. 33.]

THE PRACTICE OF EMBALMING.

Sec. 91. [License, where registered.] If the state board of embalming examiners finds that the applicant possesses a good moral character and has passed a satisfactory examination in such subjects, it shall register such applicant as

a duly licensed embalmer. The license shall be signed by the president and secretary of the board and attested by its seal. The person to whom a license is issued shall register it with the board of health of the city, village or township in which he proposes to practice. He shall also display such license in a conspicuous place in his office and annually thereafter on or before the date fixed by the state board of health pay to the secretary thereof one dollar for its renewal. [95 v. 335, § 6.] [O. L., v. 99, p. 509.]

Sec. 92. [Contagious or infectious diseases.] No person shall embalm, either by arterial or cavity treatment, or prepare for burial, cremation or transportation, the body of a person dead from a contagious or infectious disease, unless he is a duly licensed embalmer within the meaning of this act. [95 v. 336 § 7.] [O. L., v. 99, p. 510.]

Sec. 93. [Practicing embalming without authority; penalty.] Whoever practices or holds himself out as practicing the science of embalming, either by the arterial or cavity treatment, upon the body of a person dead of an infectious or contagious disease, or prepares for burial, cremation or transportation, the body of a person dead of an infectious or contagious disease, without having complied with the provisions of this act, shall be fined not less than twenty-five dollars nor more than fifty dollars for the first offense, and for each subsequent offense not less than fifty dollars nor more than one hundred dollars, or be imprisoned six months, or both. [95 v. 336 § 8.] [O. L., v. 99, p. 510.]

Sec. 94. [Embalmer's license, what to state.] An embalmer's license issued under the provisions of this act shall state the number of the license, the name and address of the person to whom it is issued, and shall not be transferable. [95 v. 336 § 9.] [O. L., v. 99, p. 510.]

Sec. 95. [To whom act does not apply.] No provision herein relating to the state board of embalming examiners shall apply to or interfere with the duties of an officer of

a local or state institution, except as herein provided, nor shall any such provision apply to a person engaged only in furnishing burial receptacles. [95 v. 336 § 10.] [O. L., v. 99, p. 510.]

Sec. 96. [Contagious or infectious diseases, who to determine.] No provision of this act shall prevent a funeral director or other person from conducting the funeral or disposing of the body of a person dead of a contagious or infectious disease after it has been prepared by a licensed embalmer as provided herein, or from conducting the funeral or embalming or preparing the body of a person dead from a disease not contagious or infectious. The state board of health shall determine what diseases are contagious or infectious within the meaning of this act. [95 v. 336 § 11.] [O. L., v. 99, p. 510.]

(The state board of health has declared the following named diseases to be contagious or infectious within the meaning of this act, to-wit: Asiatic cholera, yellow fever, typhoid fever, diphtheria (membranous croup), scarlet fever (scarlatina, scarlet rash), erysipelas, glanders, puerperal fever, anthrax and leprosy.)

(1536-758.) R. S. Sec. 2141. [Registration of births, marriages, deaths, interments, etc.; removal or conveyance of corpse.] The board of health may create a complete and accurate system of registration of births, marriages, deaths and interments occurring within its jurisdiction for the purpose of legal and genealogical investigations, and to furnish facts for statistical, scientific and sanitary inquiries; and no corpse shall be buried or cremated within the state of Ohio, or taken out of the state without a permit from the local registrar. [O. L., v. 99, p. 307.]

DIVISION 13.

COUNTY HOSPITALS FOR TUBERCULOSIS.

Section 1. [Persons having pulmonary tuberculosis not to be confined in county infirmaries.] That on and after January 1, 1909, it shall be unlawful to keep any person suffering from pulmonary tuberculosis, commonly known as consumption, in any county infirmary except in separate buildings to be provided and used for that purpose only. [O. L., v. 99, p. 62.]

Sec. 2. [Construction of hospitals; levy for that purpose; treatment, care and maintenance of patients; accounts to be kept.] The board of county commissioners are hereby authorized and directed to construct in each county a suitable building or buildings, which shall be separate and apart from the infirmary buildings, to be known as the county hospital for tuberculosis; and they shall also provide for the proper furnishing and equipment of said hospital; provided that there is not already established a hospital in the county for treatment and maintenance of tuberculosis patients; and whenever in any county funds are not available to carry out the provisions of this act, the county commissioners shall levy for that purpose, and set aside the sum necessary, which shall not be used for any other purpose, and the commissioners of the county may issue and sell the bonds of said county in anticipation of said levy. The infirmary directors shall provide for the treatment, care and maintenance of patients received at said county hospital, and for necessary nurses and attendants, and all expenses so incurred shall be audited and paid as are other expenditures for county infirmary purposes. An accurate account shall be kept of all moneys received from patients or from other sources, which shall be applied toward the payment of maintaining said county hospital; and the infirmary directors shall have authority to receive

for the use of such hospital gifts, legacies, demises, or conveyances of property, real or personal, that may be made, given or granted to for the use of said county hospital, or in its name, or in the name of said directors. [O. L., v. 99, p. 62.]

Sec. 3. [May contract with existing hospitals; probate judge may order removal of inmates of infirmary.] The commissioners and infirmary directors of any county, in lieu of providing for the erection of a county hospital for tuberculosis, may contract with the infirmary directors of any other county or with the board of public service of any municipality where such hospital has been constructed for the care and treatment of the inmates of such infirmary or other residents of the county who are suffering from pulmonary tuberculosis, and the infirmary directors of the county in which such patients reside shall pay into the poor fund of the county or into the proper fund of the city receiving such patients the actual cost incurred in their care and treatment and other necessaries; and shall also pay for their transportation. The probate judge of any county in which such hospital has [not] been provided may, upon a proper presentation of the facts and the recommendation of the state board of health, order any inmate of the infirmary who is suffering from pulmonary tuberculosis removed to the county hospital for tuberculosis of some other county, and there confined, provided that such removal shall not be made without the consent of such inmate if a suitable place outside of the infirmary is provided for his or her care and treatment. [O. L., v. 99, p. 62.] [O. L., v. 99, p. 121.]

Sec. 4. [Purposes; investigation of cases; payment of expense; medical attendance.] The county hospital for tuberculosis shall be devoted to the care and treatment of those admitted to the county infirmary who are afflicted with pulmonary tuberculosis, and of other residents of the county who may be suffering from said disease and who are in need of proper care and treatment; and the board

of infirmary directors shall investigate all applicants for admission to the county hospital for tuberculosis who are not inmates of the county infirmary and require satisfactory proof that they are in need of proper care, and have pulmonary tuberculosis; provided, that the infirmary directors may require from any such applicant admitted a payment of not to exceed $3.00 a week, or such less sum as they may determine, for hospital care and treatment. The physician to the county infirmary shall have the medical care of patients in the county hospital; provided, that any patient not an inmate of the county infirmary shall have the privilege of calling other medical attendance in consultation with the regular infirmary physician, but not at the expense of the county. [O. L., v. 99, p. 63.]

Sec. 5. [State board of health to have general supervision; rules and regulations; plans of buildings to be approved.] The state board of health shall have general supervision of all county hospitals for tuberculosis, and shall prescribe, and is hereby authorized to enforce, such rules and regulations for their government, and for the protection from infection of other inmates of the county infirmary and of nurses and attendants in the county hospital for tuberculosis, and others, as they may deem necessary; and it shall be the duty of all persons in charge of or employed at such hospitals, or residents thereof, to faithfully obey and comply with any and all such rules and regulations; and said board, acting with the board of state charities, shall approve the location and plans for all county hospitals for tuberculosis. [O. L., v. 99, p. 63.]

DIVISION 14.

MATERNITY BOARDING HOUSES AND LYING-IN HOSPITALS.

Sec. 1. [Definition of maternity boarding house or lying-in hospital; nurses.] Whoever for hire, gain or reward, receives, cares for, or treats within a period of six months, more than one woman during pregnancy, or during or after delivery, except women related by blood or marriage; or whoever for hire, gain or reward has in his custody or control at any one time two or more infants under the age of two years, unattended by parents or guardians, for the purpose of providing them with care, food and lodging, except infants related to him by blood or marriage, shall be deemed to maintain a maternity boarding house or lying-in hospital. Provided, however, that nothing herein shall be construed to prevent a nurse from practicing her profession under the care of a physician in the home of a patient, or in a regular hospital other than a lying-in hospital. [O. L., v. 99, p. 13.]

Sec. 2. [Licenses; what contained in license; limit of number; inspection.] The state board of health shall have the power to grant licenses to maintain maternity boarding houses and lying-in hospitals. Every application therefor shall first be approved by the board of health of the city, village or township in which such maternity boarding house or lying-in hospital is to be maintained. Such license shall be granted for a term not exceeding one year, shall state the name of the licensee, the particular premises in which the business may be carried on, the number of women and infants that may be boarded, treated or maintained there at any one time, and, if required by the board of health of the city, village or township in which such maternity boarding house or lying-in hospital is located, it shall be posted in a conspicuous place on the licensed premises. No greater

number of women and infants shall be kept at one time on the premises than is authorized by the license and no women or infants shall be kept in a building or place not designated in the license. A record of license issued shall be kept by the state board of health, which shall forthwith give notice to the board of health of the city, village or township in which the licensee resides of the granting of such license and of the terms thereof. The state board of health and the board of health of cities, villages or townships shall annually, and may, at any time visit and inspect or designate a person to visit and inspect premises so licensed. [O. L., v. 99, p. 13.]

Sec. 3. [Revocation of license.] The state board of health may revoke such license in its discretion where any provision of this act is violated, or in any case where in the opinion of the state board of health such maternity boarding house or lying-in hospital is being maintained without regard to the health, comfort or morality of the inmates thereof, or without due regard to sanitation and hygiene. The state board of health shall note such revocation upon the face of the record thereof and shall give written notice of such revocation to the licensee by delivering the notice to him in person or by leaving it on the licensed premises, and shall forthwith notify the board of health of such city, village or township in which such maternity boarding house or lying-in hospital is situated. [O. L., v. 99, p. 14.]

Sec. 4. [Reporting births.] Every birth which takes place in such maternity boarding house or lying-in hospital shall be attended by a legally qualified physician who shall forthwith report the fact of such birth to the board of health of the city, village or township in which such maternity boarding house or lying-in hospital is located. [O. L., v. 99, p. 14.]

Sec. 5. [Records to be kept; adopting children.] Every person holding such license shall keep a record in a form to be prescribed by the state board of health wherein he

shall enter the name and address of the physician who attended at any birth which may take place in such house or hospital, or any infant who may be sick, and the name, age and sex of all children born on the premises or brought thereto, and also the name and age of every child who is given out, adopted, or taken away to or by any person, together with the name and residence of the person so adopting or taking away such children; and within twenty-four hours after such child is given out or taken away, shall cause a correct copy of the record relating thereto to be sent to the board of health of the city, village or township wherein such house or hospital is located. [O. L., v. 99, p. 14.]

Sec. 6. [Notice in case of death; coroner's inquest; when necessary.] Every person licensed as aforesaid, shall immediately after the death of any inmate of such boarding house or lying-in hospital, whether a woman or an infant born therein or brought thereto, cause notice thereof to be given to the board of health of the city, village or township in which such house or hospital is located, and such board of health shall immediately call the coroner of the county in which said person died to hold an inquest on the body of such person, unless a certificate under the hand of a legally qualified physician is produced to said board of health by the licensee that such physician had personally attended and examined the person so dying, and also specifying the cause of death, and said board of health is satisfied that there is no ground for holding an inquest. [O. L., v. 99, p. 14.]

Sec. 7. [State board of health to furnish books for records.] Every licensee shall be entitled to receive gratuitously from the state board of health a book of forms for the registration and record of persons received into such home or hospital. The book shall contain a printed copy of this act. [O. L., v. 99, p. 15.]

Sec. 8. [Inspection.] It shall be lawful for the officers and authorized agents of the state board of health and the

boards of health of the cities, villages or townships in which such licensed premises are located to inspect such house or hospital at any time and examine every part thereof, and to call for and examine the records which are required to be kept by the provisions of this act, and to inquire into all matters concerning such house or hospital and the inmates thereof, and it shall be the duty of the licensee to give all reasonable information to such persons making the inspection, and to afford them every reasonable facility for viewing and inspecting the premises and seeing the inmates thereof. [O. L., v. 99, p. 15.]

Sec. 9. [Adoption of children.] No child under two years of age, whether inmate of such house or hospital, or born therein or brought thereto, or otherwise, shall be given out for adoption, except by and with the consent of a charitable organization, society or institution having the care of children under its control duly incorporated under the laws of the state of Ohio, or juvenile court. [O. L., v. 99, p. 15.]

Sec. 10. [Placing child for hire, gain or reward.] No parent or guardian shall give to any person an infant under two years of age for the purpose of placing it for hire, gain or reward under the permanent care and control of another person; and no person, for hire, gain or reward, shall receive such infant for the purpose of placing it under the permanent care and control of another. The provisions of this section shall not apply to any charitable organization, society or institution, incorporated under the laws of the state of Ohio, or any of the officers or agents thereof. [O. L., v. 99, p. 15.]

Sec. 11. [Secrecy of records.] No officer or authorized agent of the state board of health or the boards of health of the cities, villages or townships where such licensed homes or hospitals are located, or any keeper of such house or hospital, shall divulge or disclose the contents of the records, or any of the particulars entered therein, except upon inquiry before a court of law, or at a coroner's inquest

or before some other competent tribunal, or, in the case of such officer or authorized agent or keeper of such house or hospital for the information of the state board of health or the board of health of the city, village or township in which said house or hospital is located. [O. L., v. 99, p. 15.]

Sec. 12. [Offering inducements.] It shall be unlawful for any person licensed as herein provided, to advertise that he will adopt children, or to hold out inducements to parents to part with their offspring; and when such children are transferred by their parents, or are given out for adoption to other persons, such transfer shall be with the knowledge and consent of a charitable organization, society or institution, duly incorporated under the laws of the state of Ohio, or juvenile court. [O. L., v. 99, p. 16.]

Sec. 13. [License.] No person shall maintain a maternity boarding house or lying-in hospital, as defined in section 1 of this act, unless licensed thereto by the state board of health. [O. L., v. 99, p. 16.]

Sec. 14. [Relationship.] In any prosecution under the provisions of this act, a defendant who relies for defense upon the relationship of any said women or infants to himself, shall have the burden of proof thereof. [O. L., v. 99, p. 16.]

Sec. 15. [Penalty.] Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than three hundred ($300) dollars or by imprisonment for not more than one year, or both. [O. L., v. 99, p. 16.]

PART II.

GENERAL HEALTH ORDINANCES

DIVISION 15.

ESTABLISHMENT OF THE EXISTING BOARD OF HEALTH.

No. 7460.

AN ORDINANCE to establish a Board of Health for the City of Dayton, State of Ohio, and to repeal an ordinance therein named.

Be it ordained by the Council of the City of Dayton, State of Ohio:

Section 1. [Members of board, compensation.] That in accordance with the provisions of (1536-723) M. C. Sec. 187 of the Rev. Stat. of Ohio, therebe and hereby is established a Board of Health of and for the City of Dayton, State of Ohio. Said Board of Health shall consist of five (5) members appointed by the mayor of said city, and confirmed by the Council of said city. The members of the Board of Health shall serve without compensation and said Board of Health shall be appointed within ten (10) days after the taking effect of this ordinance.

Sec. 2. [Term of office.] The term of office of the members of said board shall be five (5) years from the date of appointment, except that the first appointed shall be classified as follows: one to serve for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one for one (1) year; and thereafter one shall be appointed annually, and at any time within thirty (30) days, next preceding the expiration of the term of office of each member of said board, his successor shall be appointed by the mayor for the term of five (5) years and confirmed by the

council, and each of said members shall serve until his successor is duly appointed and qualified.

Sec. 3. [Powers of the board of health.] Said Board of Health shall have all the powers and perform all the duties conferred upon and required of it by the laws of the State of Ohio or the ordinances and resolutions of the City of Dayton.

Sec. 4. [Repeals.] Repeals an ordinance of January 15, 1906, wherein the Board of Public Service is made the Board of Health.

Sec. 5. [Takes effect.] That this ordinance shall take effect and be in force from and after ten (10) days from the date of its first publication.

Passed by Council November 9, 1907.

[Duties and powers of health officer.] The health officer shall be the executive officer of the board of health, and it shall be his duty to carry out and enforce all existing laws having for their object the preservation of life and prevention of disease, and the abatement and removal of nuisances. He shall exercise a general supervision over the business of the office; and he shall see that all the books and records of the office are properly kept; and that the return of births, deaths, and interments are properly made and recorded; and he shall also do and perform such other duties as the board may lawfully require of him.

Gen. Ord. 1, p. 121. (Original health code.)

[Duties and powers of clerk.] The clerk shall make and keep in proper form the minutes of the meetings and proceedings of the board; he shall attend to receiving returns of deaths and the issuing of burial permits, and the registration of births and deaths and interments; also complaints of nuisances, orders relating thereto, and to do such other writing and copying of writings, and such other services relating to his position as the board of health or the health officer may lawfully require of him.

Gen. Ord. 1, p. 121. (Original health code.)

DIVISION 16.

GENERAL ORDINANCES RELATING TO FOOD, ITS INSPECTION AND PREPARATION.

MEAT INSPECTOR.

Section 1. [Election of inspector of provisions.] Be it ordained by the City Council of the city of Dayton, that as soon as may be after the passage of this ordinance, and annually thereafter at the first meeting of City Council following the organization thereof, there shall be elected an inspector of beef cattle, sheep, hogs, poultry, game, fresh meat and fresh fish, and the inspector so elected shall hold his office until his successor shall be chosen and qualified.

Sec. 2. [Unlawful to bring into the city diseased or infected cattle; penalty.] It shall be unlawful for any person to bring into said city any beef cattle, sheep or hogs, the same being or having been diseased or infected, or to sell, or hold, or offer for sale in said city the meat of any diseased or infected animal, or any unwholesome meat, poultry, game, fish, or milk. Any person offending against this section shall be fined in any sum not exceeding one hundred dollars, or be imprisoned not exceeding thirty days, or both, at the discretion of the mayor.

Sec. 3. [To be removed after notice from inspector.] Any person bringing into said city any cattle, sheep or hogs, diseased or infected as aforesaid, or which have been recently exposed to infection, shall remove the same from the city forthwith upon notice from the inspector requiring the same, and any person refusing, when so notified, to remove any such animal as aforesaid, shall be deemed guilty of an offense, and shall be liable to fine and imprisonment, or either, as provided in the preceding section.

Sec. 4. [Duty of inspector; proviso.] It shall be the duty of said inspector to examine all poultry, game, milk, fresh meat, and fresh fish, held or offered for sale in said city, and especially in the public markets thereof; and whenever, upon such inspection, he shall find and determine that any milk, poultry, game, fresh meat, or fresh fish, so held or offered for sale, is adulterated, impure, unsound, unwholesome, or unfit for human food, he shall immediately seize and destroy the same. Provided, however, that he may report any such seizure to the health officer of the city, and instead of destroying the article forfeited shall make such other disposition thereof as said officer may direct, not inconsistent with regard for the public health.

Sec. 5. [Further duties.] Said inspector shall also, by virtue of his said office and for the better supervision of the public markets in said city, inspect all vegetables, fruits and berries offered or held for sale in any of said markets or elsewhere in said city; and whenever he shall condemn any vegetables, fruits, or berries so offered or held for sale, as stale, unsound, fermented or unwholesome, he shall cause the same to be removed forthwith and shall so dispose of the same that the sale or use thereof for food may not thereafter be attempted.

Sec. 6. [Duties.] He shall attend the regular meetings of the board of health and all special meetings of which he may have notice, reporting his action in all cases to said board and enforcing its regulations, applicable to the public markets and other places at which provisions are sold.

Sec. 7. [Duties.] For any violation of this ordinance, or of sections nine, ten, eleven, twelve, thirteen, and fourteen of the code of health laws, coming to the knowledge of the inspector, it shall be his duty to make complaint before the mayor, and cause the offender to be prosecuted.

Sec. 8. [Salary; Bond.] The salary of the inspector shall be at the rate of nine hundred dollars per year, payable

monthly; and before entering upon the duties of his office he shall qualify therefor according to law, giving bond in the sum of one thousand dollars.

Gen. Ord. 1, p. 202.

No. 4692.

AN ORDINANCE to provide for the inspection of animals intended for food.

(Passed March 24, 1897.)

Section 1. [Cattle, etc., brought to city for sale to be first inspected.] Be it ordained by the City Council of the city of Dayton, that all beef-cattle, sheep and hogs, brought to the city of Dayton, to be used as food, or to be sold for said purpose in said city, shall, before being sold or slaughtered, be inspected by the meat inspector of said city.

Sec. 2. [Meat inspector to give instructions for disposition of cattle unfit for food.] Any and all such animals as upon inspection, are in the opinion of the meat inspector unfit for food, shall be detained at the place of inspection, or taken to such other place as he may order, and be there detained, until he issues to the owner of such animal or animals, or to the person or persons in charge of the place at which such inspection takes place, or to which such animal or animals may be removed pursuant to orders as aforesaid, instructions as to what disposition shall be made thereof, and they shall be disposed of only in accordance with such instructions, and such animal or animals should be taken care of and disposed of at the expense of the owners thereof.

Sec. 3. [Meat inspector may kill or destroy such cattle.] Any such animal or animals, which have been inspected as aforesaid, and which in the opinion of the meat inspector are unfit for food, shall either be sent out of the city or be killed and the meat thereof destroyed, as the meat inspector shall direct.

Sec. 4. [Penalty.] Any person violating any of the pro-

visions of this ordinance shall, upon conviction, be fined in any sum not exceeding fifty ($50) dollars, and shall pay the costs of prosecution.

Gen. Ord. 3, p. 236.

SALE OF MEATS.

Sec. 11. [Fresh meats.] If any person, except a butcher having a lease, as provided in this ordinance, shall sell or expose or offer for sale, in said market or market space, any article of fresh meat whatsoever, in any quantity less than one-quarter, such person, on conviction, shall pay a fine not exceeding ten dollars for each offense and costs.

Sec. 12. [Sausages, puddings and meats.] If any person, except a butcher having a lease, as provided in this ordinance, shall sell or offer to sell in said market any sausages, or puddings made of fresh meats with other ingredients, pork spare-ribs, tenderloins, pigs' feet and backbones, in any quantity less than twenty pounds in weight, unless the said meat of which said sausages or puddings, pork, spare-ribs, tenderloins, pigs' feet, and the backbones shall be made, shall have been raised by the person offering the same for sale, such person, on conviction thereof, shall pay a fine not exceeding five dollars and costs.

Sec. 13. [Cleanliness; penalty.] Every butcher shall be required to keep his stall and benches, blocks and fixtures attached thereto, in a clean and wholesome condition, and if any butcher shall have his stall, benches, blocks or fixtures in a filthy or unwholesome condition, for the space of two hours after the close of market on any market day, such butcher, on conviction thereof, shall pay a fine not exceeding five dollars and costs.

Sec. 14. [Hours for the removal of fresh meats and fish.] From the first day of May until the first day of October in each year, every butcher or other person who shall bring fresh meat or fresh fish to said market, shall remove the same therefrom within two hours after the close

of market; and any butcher or other person who shall bring fresh meat or fresh fish to the said market, within the period of the year above specified, and shall suffer the same to remain there for more than two hours after the closing of the market, upon conviction thereof, shall pay a fine not exceeding five dollars and costs.

Sec. 18. [Unwholesome provisions.] Any person who shall sell, or offer to sell, any unwholesome, damaged or spoiled provisions of any kind, in said market, upon conviction thereof, shall pay a fine not exceeding ten dollars and costs.

Sec. 19. [Garbage, offal, etc.] Any person who shall slaughter or dress any animal or fish within said market space, or who shall lay or place any garbage, offal, filth or rubbish, in any part of the same, on conviction thereof, shall pay a fine not exceeding ten dollars and costs.

Gen. Ord. 2, p. 55. (Section numbers retained.)

See "Market regulation," p. 195.

Also see "Meat regulation," p. 189.

UNWHOLESOME FOODS.

Sec. 9. [Pregnant animals not to be killed.] That no butcher or other person shall knowingly kill any cow, sheep, or hog that is pregnant, and the meat of any such cow, sheep, or hog shall not be sold or offered for sale for human food at any market or elsewhere in this city.

Sec. 10. [Unhealthy food.] No meat, fish, birds or fowl, or vegetables, not being then healthy, fresh, sound, wholesome and safe for human food, nor any meat or fish that died by disease or accident shall be brought within this city or offered or held for sale in any public or private market, as such food, anywhere in this city.

Sec. 11. [Unhealthy food.] No calf, pig or lamb shall be, or the meat thereof shall be brought, held, or offered for sale as such food in this city, which, at the date of its death was less than four weeks old; nor shall any meager,

sickly or unwholesome fish, birds or fowls be bought, held or sold or offered for sale as such food in said city.

Sec. 12. [Swill milk not to be sold.] No person shall offer or have for sale, in the city, any unwholesome, watered or adulterated milk, or milk known as swill milk, or milk from cows (or other animals) that for the most part lived in stables, or that fed on swill, garbage or other like substance, nor any butter or cheese made from such milk.

Sec. 13. [Unwholesome meat.] That no cased, blown, plainted, raised, stuffed, putrid, impure or unhealthy or unwholesome meat, or fish, bird or fowl shall be held, bought or sold or offered for sale for human food, or held or kept in any market, public or private, or any public place in this city.

Sec. 14. [Decayed vegetables, etc.] That no person shall sell or offer to sell or bring within the limits of the city, any decayed or damaged vegetables or fruit.

Gen. Ord. 1, p. 121. Passed June 2, 1867. (Section numbers retained.)

PEDDLING MEAT.

AN ORDINANCE supplemental to the ordinance to regulate the Main and Jefferson Street Market.
(Passed February 9, 1877.)

Section 1. [Sale of meat upon streets or public highways.] Be it ordained by the City Council of the city of Dayton, that it shall be unlawful for any person to peddle meat or sell the same in any quantity less than one quarter upon the streets or public highways of said city.

Sec. 2. [Temporary stalls abolished.] Within ten days all stalls and fixtures temporarily allowed about the public park between St. Clair street and the Canal shall be removed by the owners thereof and after the 23rd day of December, 1876, no meat or other articles shall be sold in said stalls or streets about said park.

Sec. 3. [Penalty.] Any one violating this ordinance shall be fined not over twenty-five dollars and costs; this ordinance shall take effect in ten days after its first publication.

Gen. Ord. 2, p. 64.

See Meat Regulation, p. 189.

LICENSED HAWKER OF UNWHOLESOME PROVISIONS.

No. 2728.

AN ORDINANCE supplementary to an ordinance entitled "An ordinance to amend Section 1 of an ordinance to license hawkers and peddlers within the city of Dayton," passed September 10, 1880, amended August 6, 1884, and amended June 7 and passed July 19, 1889.

(Passed August 1, 1890.)

Section 1. [Sale of unwholesome, damaged, etc., articles of food; use of false weights, etc.; penalty.] Be it ordained by the City Council of the city of Dayton, that any licensed hawker or peddler who shall sell or offer to sell at any time or place within the city of Dayton any unwholesome, damaged or spoiled provisions or article for food of any kind, or who shall use false weights or measures or violate any ordinance providing for and regulating such hawkers and peddlers shall on conviction thereof, before the mayor forfeit his license and be fined not exceeding ten dollars and costs of prosecution.

Gen. Ord. 2, p. 312.

SUPPLEMENTAL RULE REGULATING SLAUGHTER HOUSES.

Adopted by the board of health September 17, 1869.
[Approved by council September 17, 1869.]

[Slaughter houses, how to be cleaned and disinfected.] No butcher, or other person, shall be allowed to kill or slaughter any beeves, calves, sheep, hogs, or other animals, within the city, except the house, yard, pen, or place where

the killing shall take place, shall have been a perfectly water-tight floor, which shall lie directly upon the earth, previously made impervious by water-lime, asphaltum, "concrete," or other like substance, and the fluids, washings, and liquid offal shall be conducted into water-tight vessels or vats, and immediately disinfected, or carried without the city. The offal, such as intestines and their contents, bones, horns, hoofs, and scraps shall be taken at once outside the city. And, furthermore, the entire premises shall be disinfected at least twice a week, and the vessel or vats containing the liquid offal shall be emptied at least twice a week. And, moreover, the entire premises shall be thoroughly washed immediately after the killing of animals' takes place.

Minutes H, p. 419.

DIVISION 17.

GENERAL ORDINANCES RELATING TO CONTAGIOUS AND INFECTIOUS DISEASES.

AN ORDINANCE to prevent the introduction and spread of contagious diseases.
[Passed May 20, 1872.]

Section 1. [Reports of cases of contagious disease to be made immediately.] (As amended by Ordinance No. 2197, September 16, 1887.) Be it ordained by the City Council of the city of Dayton, That for the purpose of guarding against the introduction of contagious diseases, it shall be the duty of all physicians and keepers of hotels or boarding houses in said city, and of persons in charge of canal boats and railroad trains entering said city, to report in writing to the health officer of said city, without delay, every case of cholera, smallpox, scarlet fever, diphtheria, or other contagious and malignant or unusual diseases coming to their knowledge, within the city or in the vicinity thereof; and every physician or other person, as aforesaid, wilfully neglecting to report any such case, with name and residence, for more than twelve hours after obtaining knowledge of the same, shall be fined in any sum not less than five ($5) nor more than twenty ($20) dollars. Gen. Ord. 2, p. 243.

Sec. 2. [Permit required for patient to leave room; unlawful for any person to enter house where there is contagious disease; disinfection.] (As amended February 14, 1882.) That no person in said city, having the smallpox, yellow fever, or other contagious and malignant disease, shall leave his or her room, and no person convalescent or recently recovered, having had such disease, shall go abroad in said city without first obtaining from the health

officer a permit in writing for that purpose, nor shall the nurse or attendant upon any patient sick of such disease, leave the premises where such patient may be, without a permit as aforesaid, either of which permits may be granted in every case, upon a certificate from the attending physician of such patient, satisfactory to said officer. And no person or persons having been exposed to the smallpox, yellow fever, or other contagious diseases, or being a resident of any house or dwelling where smallpox, yellow fever, or other contagious disease exists, shall leave the premises designated by the health officer for any period whatever, without first having obtained a permit in writing from said health officer authorizing him or her so to do. And it shall be unlawful for any person knowingly to enter any residence or other place to see or visit a person sick with the smallpox, yellow fever, or other contagious diseases, unless such person does so as nurse or physician, or under the direction of the health officer. And in case of death from contagious diseases, and especially in case of smallpox, scarlet fever, diphtheria, cholera, yellow fever and measles, when declared malignant by the health officer, the funeral shall be strictly private. And it is hereby made the duty of the health officer, before granting any such permit, to require that such patient, nurse, attendant or occupant, shall put off and destroy the clothing worn during any sickness or attendance as aforesaid, or that the same shall be so disinfected that there can be no danger of contagion therefrom, and such disinfection shall be done under the direction of the board of health. The board of health and health officer are also hereby authorized and directed to prohibit all sale or disposition of rags, clothing, bedding, carpets, or furniture to dealers or other parties, from dwellings in which any patient afflicted with smallpox, yellow fever, or other contagious disease, may be or may have been used, or the washing of clothing or other articles of any kind which may have been used or exposed to infection in the apartments of such patient, elsewhere than in said

dwelling, until the same shall have been disinfected in a manner satisfactory to the health officer.

Sec. 3. [Premises to be disinfected.] It shall be the duty of every person controlling premises occupied by any such patient, to thoroughly cleanse and disinfect the same.

Sec. 4. [Penalty.] (As amended February 14, 1882.) Any person violating sections two and three of this ordinance or neglecting any duty imposed by either of said sections shall be fined in any sum not less than ten dollars, nor more than fifty dollars for every such offense, or be imprisoned not less than fifteen days nor more than thirty days, at the discretion of the court. Gen. Ord. 2, p. 156.

TENEMENTS.

Sec. 15. [Filthy tenement houses, etc.] Whenever the board of health shall be satisfied that the number of persons occupying any tenement or building is so great as to be the cause of nuisance or sickness, or a source of filth, or whenever apartments are used for lodging that are damp, or not properly provided with water or privies, or vaults, the board shall serve a written notice to the owner, agent or occupant requesting them to correct or remove the objection named; or they may order the apartment or apartments (partially or entirely) vacated, if the owner, agent, or occupant neglect or refuse to obey such notice, the board of health are hereby fully authorized, after five days' notice, to forcibly remove all or part of said tenants or persons. Gen. Ord. 1, p. 121.

REMOVALS.

Sec. 5. [Permit required for the removal of persons having contagious disease.] No person shall, without a permit from this board, carry or remove from one building to another, or from any railroad depot to any house, or through the public streets, or from any canal boat to the shore, any person sick of any contagious disease, or any

person that has been exposed to and is liable very soon to develop any contagious disease, nor any articles that have been exposed to any such disease. Gen. Ord. 1, p. 121.

AN ORDINANCE to prevent the spread of contagious disease.
[Passed September 16, 1887.]

Section 1. [Yellow flag and printed notice to be placed on buildings in certain cases; penalty for disturbing.] Be it ordained by the City Council of the city of Dayton, that it shall be the duty of the health officer whenever any case of smallpox shall be reported to him, or come to his knowledge, to forthwith cause a yellow flag and printed notice to be placed conspicuously upon the premises where the patient may be, warning the public of contagion near, and it shall be the duty of the health officer, whenever any case of cholera, scarlet fever, or other contagious, malignant or unusual disease shall be reported to him, or come to his knowledge, to forthwith cause a printed notice to be placed conspicuously upon the premises where the patient may be, stating the disease existing therein, and warning the public of contagion near; and every person guilty of displacing any such flag or printed notice before the recovery or removal of such patient and the disinfection of the premises shall, on conviction thereof, pay a fine of not less than five ($5) nor more than twenty ($20) dollars, together with all costs. Gen. Ord. 2, p. 241.

VACCINATION.

Sec. 16. [Vaccination required.] That every person being the parent or guardian, or having the care, custody or control of any minor or other individual, shall (to the extent of any means, power and authority of said parent, guardian or other person, that could properly be used or exerted for such purpose), cause and procure such minor or individual to be so promptly, frequently and effectually vaccinated, that such minor or individual shall not take, or be liable to take the smallpox. Gen. Ord. 1, p. 121.

No. 2314.

AN ORDINANCE prohibiting public funerals in cases of death from contagious diseases.

[Passed October 12, 1888.]

Section 1. [Public funerals prohibited in cases of death from contagious diseases.] Be it ordained by the City Council of the city of Dayton, that in all cases where any person shall have died affected with cholera, smallpox, yellow fever, typhus fever, scarlet fever, diphtheria, or any other contagious disease, it shall be unlawful for any person to attend or be present at the funeral of such deceased person, except the officiating minister and his assistants, the undertaker and his assistants, and the near relatives and friends of such deceased person, and it shall be unlawful for any person to convey the body of any such deceased person into any church, chapel, or public building for any purpose whatsoever.

Sec. 2. [How buried.] That it shall be the duty of every person having, or assuming to have, the care or control of the body of any person who shall have died affected with any of the diseases named in the first section of this ordinance, or other contagious disease, to cause such body, within twelve hours after the death of such deceased person, to be placed in a tight coffin or casket, and to cause the same to be buried within twenty-four hours after the death of such deceased person; and it shall be unlawful for any person to open such coffin or casket previous to the burial thereof.

Sec. 3. [Penalty.] Any person violating any of the provisions of this ordinance shall, upon conviction thereof before the Mayor be fined in any sum not exceeding fifty dollars nor less than ten dollars, and pay the cost of prosecution. Gen. Ord. 2, p. 262.

BOARD OF HEALTH.

AN ORDINANCE further defining the duties and enlarging the powers of the board of health.
[Passed August 10, 1866.]

Section 1. [Further powers of board.] Be it ordained by the City Council of the city of Dayton, that the board of health of said city are hereby empowered and it is made their duty to provide and establish such number of hospitals as, in their judgment, may be necessary; to employ a health officer and such assistants as he may need, prescribing their duties respectively; and the health officer and assistants so employed, shall receive such compensation as the board of health may allow, payable out of the city treasury.

Sec. 2. [May require reports.] That the board of health are hereby authorized, and it is made their duty, to establish rules requiring every physician, who may attend any case of epidemic or contagious disease in said city, to report the same to such officer as the board may designate, specifying such cases as terminate fatally, and giving such information in regard to each as may be required by the rules aforesaid; and any physician neglecting or refusing to report, as required by the rules aforesaid, shall be deemed guilty of an offense, and for every such neglect or refusal shall pay a fine not exceeding ten dollars and costs.

Gen. Ord. 1, p. 114.

DIVISION 18.

GENERAL ORDINANCES ON BIRTHS, DEATHS, INTERMENTS AND PUBLIC FUNERALS.

[Reports of deaths and births required.] The board of health requires all physicians, or other persons having charge of sick or diseased persons in this city, to report to said board all deaths, with the disease or cause of death, which come under their care or knowledge; also a report of all births. Gen. Ord. 1, p. 121, part of Sec. 17.

Sec. 18. [Report of births and deaths required; registry of same.] Every physician, midwife and other person who may professionally assist or advise at any birth, shall make and keep a registry of every such birth, and therein enter the time and place, ward and street, number of such birth, and the sex and color of every child born, and the names and residence of each of the parents (so far as the foregoing facts can be ascertained); and every physician and professional adviser who has attended any person at a last illness, (or has been present by request at the death of any person,) shall make and preserve a registry of such death, stating the cause thereof, and specifying the date, hour, place, street, and number of such death. Gen. Ord. 1, p. 121.

Sec. 19. [Returns.] That it shall be the duty of every person mentioned in the last section (or required to make or keep any such register), to present to this board a copy of such register, signed by such person, or a written statement by him signed, of all the facts in said register required to be entered within five days after birth, and within thirty-six hours after the death of any person to whom such registry may or should relate. Gen. Ord. 1, p. 121.

Sec. 20. [Reports necessary before issuing of permits.] (As amended July 5, 1889.) It shall be the duty of every

undertaker or other person before removing any corpse for burial to obtain from the board of health a permit so to do, and before obtaining such permit he shall deposit in their office a certificate setting forth as nearly as can be ascertained the name, age, sex, nativity, color, occupation, whether married or single, number and street of late residence in the city, time of residence therein, place of previous residence, date of death, and the place and date of intended interment, and the name of the physician or surgeon in attendance at the time of death. In case a coroner's inquest shall be held, the fact shall be stated and the coroner shall be required to certify the fact to the board of health, and no sexton or other person shall assist in or assent to, or allow any such interment, or aid or assist about preparing any grave or place of deposit for any such body, for which such permit has not been given authorizing the same, and it shall be the duty of any sexton who shall receive any such permit to preserve and to return the same to this board as its regulations may require. Gen. Ord. 2, p. 277.

Sec. 3. [Permits for interments.] There shall be no interment in any cemetery or burying ground in said city without permission for that purpose first obtained by the undertaker; said permit shall be in writing, signed by some person duly authorized by the board of health to issue the same, and shall be filed and registered by the sexton having charge of the cemetery or burying ground where the interment shall be made; and any undertaker or sexton violating this section shall be deemed guilty of an offense, and on conviction thereof, shall pay a fine not exceeding ten dollars and costs. Gen. Ord. 1, p. 114. (Section number retained.)

DIVISION 19.

GENERAL ORDINANCES RELATING TO GARBAGE.

No. 6049.

AN ORDINANCE providing for and regulating the collection and disposal of garbage, dead animals, fish, fowls, fruit and vegetables, and all other animal and vegetable matter used as food in the city of Dayton, and authorizing the Board of Public Service of said city to contract, in accordance with law, for the disposal of same, in a manner free from public nuisance and danger to the public health.

[Passed August 24, 1903.]

Be it ordained by the Council of the city of Dayton, State of Ohio:

Section 1. [Vessels or tanks to be used; accessible to garbage collectors.] That it shall be the duty of every resident householder, tenant, hotel-keeper, boarding-house keeper, wholesale and retail dealer and vendor of meats, fish and fowls, fruit and vegetables, and every person occupying a dwelling in the city of Dayton, to provide or cause to be provided, and at all times keep or cause to be kept or provided, portable vessels or tanks for holding garbage, said vessels or tanks to be perfectly water-tight, provided with suitable handles on the outside and also with a tightly fitting cover which shall not be removed except when necessary in the use of such vessels or tanks. Said vessels or tanks shall be kept or placed at the rear of the house or building, or in the basement, areas or passage ways most accessible for the purpose of collection, and shall not be kept upon the street, alley, sidewalk or other public place, and shall be of capacity of not more than two (2) bushels.

All such vessels or tanks shall be promptly delivered to any authorized collector calling for the same, or placed,

without unnecessary delay, where the same can be obtained by such collector, and no person except for the purpose authorized, shall in any manner interfere with such vessels or tanks or the contents thereof.

Sec. 2. ["Garbage" and "night soil" defined.] The word "garbage," as used in this ordinance, shall be held to include every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, which attends the preparation, dressing, use, cooking, dealing in, or storage of, meats, fish, fowls, fruits or vegetables.

The word "night soil," as used herein, shall be held to mean the contents of privy vaults.

Sec. 3. [Things excluded from garbage vessel.] It shall be unlawful for any person to place in said above-mentioned vessels or tanks any ashes, tin, glass, refuse, waste, or any other material whatsoever, except garbage as defined in this ordinance.

Sec. 4. [Disposal of garbage; distance to remove and deposit; special directions regarding dead animals.] The Board of Public Service of said city of Dayton is hereby authorized and directed to advertise for proposals and to contract in accordance with law, for a period of ten (10) years, with any person, partnership, association or corporation for the disposal of all such garbage of said city. Provided, however, to the end that such garbage may be collected with the greatest economy, that the same shall be received from the collection wagons of said city, or from the collection wagons of any person, co-partnership, association or corporation with which the said city may contract for the collection of such garbage at a distance not greater than a mile and a half from the intersection of Main and Third Streets in said city of Dayton. And provided, further, that such garbage shall be collected and disposed of in a sanitary manner and at all times free from nuisance and danger to the public health, and provided, further, that if such garbage be disposed of within the limits of the city of Dayton, or within three (3) miles thereof, the same shall be

done by reduction or cremation in closed receptacles from which no gases, vapors, or odors shall be permitted to escape, and at a temperature and in a manner which shall render the contents of such receptacles, before the same shall be exposed to the air, perfectly sterile and free from offensive odors. And the Board of Public Service of said city is hereby authorized and directed to remove, or to contract for the removal and to contract for the disposal of, all remains and carcasses of all dead horses, mares, mules, asses, oxen, steers, cows, goats, hogs, dogs, fowls, or other animals, subject to the jurisdiction of said Board. Provided, that all such remains and carcasses shall be removed in a sanitary and inoffensive manner and within ten (10) hours after report of the same is made to the Board of Public Service or the Board of Health of said city.

Sec. 5. [No unauthorized person allowed to collect, remove, etc.] No person or persons, unless authorized by the Board of Public Service, shall collect, remove, appropriate or dispose of, or cause to be collected, removed, appropriated or disposed of, any garbage and dead animals as aforesaid; and all said garbage and dead animals found and collected in said city shall be delivered to, and accepted by, the contractor for the disposal thereof, and any person doing or attempting to do otherwise with any such garbage or dead animals, shall be guilty of an offense.

Sec. 6. [Deposit of garbage, etc., in or upon streets, alleys, etc., prohibited.] No person shall throw, bury, burn or leave in or upon any street, court, lane, alley, public square, public enclosure, vacant lot, or any pond, stream, or body of water or branch thereof, within the limits of said city, any garbage, or dead animals, or waste fish, or fowl, or any portion thereof.

Sec. 7. [Transporting garbage, etc., over streets, etc.; who authorized.] No person, partnership, association or corporation, unless authorized by the Board of Public Service, shall remove, transport, cart or carry through any of the streets, squares, lanes, alleys, or ways of the city of

Dayton, any garbage, or dead animals, or waste, fish, or fowls.

Sec. 8. [Collection of night soil.] The person, partnership, association or corporation with whom a contract is made hereunder for the disposal of garbage shall also agree and contract to receive all night soil collected in said city from the collectors thereof, at the same place and for the same time that garbage is received, and to dispose of said night soil in the same manner as said garbage is disposed of, and further, to charge such collectors of night soil for disposing of same at the same rate as said city shall pay for the disposal of garbage under such contract, or such less rate as such contractor and collectors may agree upon, but all such collectors shall be charged the same rate and there shall be no discrimination made between them. The city shall pay nothing for disposal of night soil and the contract for the disposal of night soil shall be with the city for the benefit of collectors of night soil.

Sec. 9. [Penalty.] Any and every person or persons failing to perform the duties required of them, or to comply with the provisions of this ordinance, or of the rules and regulations made under and by virtue of the same, shall for every such offense, upon conviction thereof, be subject to a fine or penalty of not more than fifty ($50.00) dollars, which fine or penalty shall be collected as fines and penalties are now by law collected.

Sec. 10. [Repeal.] All ordinances and parts of ordinances of said city of Dayton, conflicting with any of the provisions of this ordinance be and the same are hereby repealed.

Gen. Ord. 3, p. 495.

No. 4090.

AN ORDINANCE to provide for the numbering of carts and wagons used in garbage and ash service.

[Passed September 14, 1894.]

Section 1. [Mayor to number garbage carts.] Be it ordained by the City Council of the city of Dayton, that

each cart or wagon used in gathering garbage, slops, ashes, slop or rubbish in said city, shall have assigned to it a number, such number to begin with "1" and run consecutively, by the mayor, and the number so assigned to each cart or wagon shall be, by the owner thereof, painted on galvanized iron or tin, 15 inches by 15 inches in size, such number to be painted in black and to be not less than four inches in height, and shall be securely fastened upon the each side of such cart or wagon, in plain view.

Sec. 2. [Penalty.] The owner of any such cart or wagon who fails to comply with the provisions of section 1 of this ordinance, or any person who shall drive any such cart or wagon without its proper number so painted and fastened upon it, shall be guilty of a misdemeanor and shall be fined in any sum not exceeding $10.

Gen. Ord. 3, p. 167.

No. 4693.

AN ORDINANCE to regulate the disposition of refuse and offensive matter.

[Passed June 24, 1898.]

Section 1. [Unlawful to dump garbage, etc., within the city.] Be it ordained by the City Council of the city of Dayton, that it shall be unlawful for any person or persons to throw, cast, deposit, dump, unload, place or flow, or cause to be thrown, cast, deposited, dumped, placed or flowed any garbage, swill, night soil, contents of privies, vaults or sinks, butchers' offal, dead animals, carrion, decayed fruits or vegetables, or any filthy or offensive matter, substance or liquid, of any kind, in or upon any lot, land, ground, public highway, river, stream of water, canal, basin or pond within the city of Dayton, except as provided by section 6923 of the Revised Statutes of Ohio.

Sec. 2. [Style of wagons for hauling garbage, etc., through city.] That all garbage, night soil, contents of privies, vaults and sinks, and other offensive matter, shall be removed and hauled in and through said city, only in carts

or wagons, the beds or tanks of which are of metal and water tight, or in water-tight barrels, such wagons, cars or barrels to be provided with air-tight lids, covers or valves, which will prevent the escape of offensive odors therefrom, and all such lids, tops, covers or valves, shall be shut and securely fastened when any of the matter aforesaid in this section, is being so removed or hauled in such wagons, carts or barrels, and all such wagons, carts or barrels shall be kept thoroughly cleansed and disinfected and shall not be used when otherwise.

Sec. 3. [Conduct of persons in crematory.] That every person while in the building of the city crematory, or in the grounds appurtenant and attached thereto, shall, both in his own conduct and in the handling of any of the matter set forth in section 1 hereof, which he may have brought there for destruction, be governed and conform to the orders of the man in charge of the crematory, and to the rules and regulations relating thereto, which may be prescribed by the board of city affairs.

Sec. 4. [Crematory prices.] That any person or persons may take, or cause to be taken, to the said crematory for destruction, any matter or substance mentioned in section 1 hereof, and for such service shall pay, in advance, the prices from time to time fixed by the board of city affairs, of which a schedule shall be posted in the crematory building; provided that no charge shall be made to any person or persons operating under a contract with the city, unless otherwise provided in such contract.

Sec. 5. [Vessels for garbage at residences and places of business.] That it shall be the duty of every occupant of any building, residence or place of business in the city of Dayton, to provide and keep within or near such residence, building or place of business in the city of Dayton, suitable and sufficient metal or iron vessels, with covers, such vessels to be to the approval of the board of city affairs, for receiving and holding all ashes, rubbish, garbage, liquid and

other offal, except excrement, that may accumulate at any such building, residence or place of business. Such vessels shall be made tight so as to prevent leakage, and shall not be filled higher than within four inches of the top. Separate vessels shall be provided as aforesaid for ashes and rubbish together, and separate vessels shall be provided as aforesaid for garbage and liquid offal together provided that no excrement shall be emptied or placed in either class of said vessels. Such vessels shall be kept at all times in such places as are readily accessible for removal, and where they will not be offensive to the public, and no unauthorized person shall in any way interfere or tamper therewith. No person shall steal, break, deface, mutilate or damage any vessel provided for in the ordinance, and any person so doing shall be punished in accordance with the provisions hereof.

Sec. 6. [Penalty.] That any person wilfully violating the provisions of section 5 hereof shall be fined in any sum not exceeding five ($5.00) dollars, and shall pay the costs of prosecution, and any person or persons violating any of the provisions of the other sections hereof shall be fined in any sum not exceeding fifty ($50.00) dollars and shall pay the costs of prosecution.

Sec. 7. [Repeals.] That an ordinance passed October 7, 1892, entitled "An ordinance to regulate the disposition of garbage and contents of all vaults and sinks, and all other obnoxious or refuse matter, and to repeal an ordinance entitled 'An ordinance to regulate the disposition of garbage and contents of all vaults and sinks and other obnoxious or refuse matter,' passed August 2, 1887," and section 4, as amended July 31, 1883, of an ordinance entitled "An ordinance for the punishment of offenses," passed September 16, 1842, be and the same are hereby repealed.

Gen. Ord. 3, p. 311.

No. 6946.

AN ORDINANCE to prohibit the depositing of dung, garbage or ashes, or receptacle therefor, upon any street, avenue, alley, or other public highway.

[Passed January 2, 1907.]

Amended by Ordinance No. 7335, passed August 16, 1907, as follows:

Be it ordained by the Council of the city of Dayton, State of Ohio:

Section 1. [Becomes nuisance.] That it is hereby determined that it is and shall be a nuisance and unlawful for any person to deposit and allow to remain upon any street, avenue, alley or public highway, within the city of Dayton, state of Ohio, garbage or ashes, or to place and allow to remain within the limits of any street, avenue, alley or other public highway in said the city of Dayton, any receptacle for the deposit of such garbage or ashes.

Amendment: Spec. Ord. 7, p. 643.

Sec. 2. [Penalty.] That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in any sum not to exceed fifty ($50.00) dollars, and such person shall pay the costs of prosecution.

Spec. Ord. 7, p. 468.

AN ORDINANCE supplementary to an ordinance entitled "An ordinance for the punishment of offenses," passed September 16, 1842.

[Passed July 19, 1872.]

Section 1. [Throwing rubbish into Mill Street forbidden; penalty.] Be it ordained by the City Council of the city of Dayton, that it shall be unlawful for any person or persons to throw, cast or deposit, or cause to be thrown, cast or deposited into Miami River, at the head of Mill Street, any animal substance, whatever or any other offensive matter, or any rubbish, dirt, ashes or earth; any person or persons so offending, on conviction thereof, shall pay a fine not less than five dollars nor more than twenty, together with the costs of suit.

Gen. Ord. 1, p. 202.

DIVISION 20.

GENERAL ORDINANCES RELATING TO NUISANCES.

PREPARATION OF FOOD.

No. 7246.

AN ORDINANCE to prevent annoyance from offensive odors arising from the preparation of certain foodstuffs.

[Passed May 6, 1907.]

Be it ordained by the Council of the city of Dayton, State of Ohio:

Section 1. That the cooking of any meat or of the seasoning therein to be used in the preparation of any Hamburg steak or Hamburg steak sandwich or other foodstuff, whereby an offensive odor is produced of such a character as to annoy people in the neighborhood, is and shall be a nuisance and is so determined to be by said Council, and it shall be unlawful for any person, persons, firm or partnership to cook any meat or any seasoning therein to be used in the preparation of any Hamburg steak or Hamburg steak sandwich or other foodstuff, whereby an offensive odor is produced of such a character as to annoy people in the neighborhood.

Sec. 2. That any person, or persons, or firm or partnership who shall violate any of the provisions of section 1 of this ordinance shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding ten dollars, and the cost of prosecution.

Spec. Ord. 7, p. 566.

WASTE WATER.

AN ORDINANCE to prevent certain nuisances.
[Passed September 27, 1852.]

Section 1. [Nuisances from waste water in gutters; how abated and at whose cost.] Be it ordained by the City Council of the city of Dayton, that for the purpose of preventing nuisances now and hereafter, arising from waste water in gutters, flowing from street pumps, or from any other source, sinks or sewers shall be dug at every such pump at a distance of ——— feet, and at least four feet below the surface of the gravel; they shall be walled with stone, three feet in diameter at bottom and eighteen inches at top, so covered with iron and otherwise protected, as to render them safe and durable, and with such apparatus connecting them with the pumps, as that all waste water from said pumps shall be received by them; and such sinks or sewers shall be dug at every other point at which water flows or may flow into gutters from any source or cause whatever, and by remaining therein create a nuisance.

Sec. 2. [Where sinks or sewers shall be made.] That all such sinks or sewers shall be dug and completed under the supervisions of the city engineer, and at such points as the engineer, together with the trustees of the ward in which the improvement is proposed may determine.

Sec. 3. [Who shall make sewers or sinks and keep the same in repair.] That all owners of street pumps from which waste water flows or may flow and create a nuisance, and the owner or owners of any property from which water flows or may flow as aforesaid, into gutters, from any source or cause whatever, and by remaining therein create a nuisance, shall be at the expense of digging and completing such sinks or sewers, and attaching the necessary apparatus, and keeping the same always in repair.

Sec. 4. [Property owners shall have ten days' notice to abate the nuisance, and on default marshal or trustees of the ward to put the work under contract.] (As amended

June 12, 1874.) That ten days' notice shall be given to the persons aforesaid by the city marshal or one of the sanitary police, whenever any resolution or order shall pass the city council or board of health requesting any person or persons to have sinks or sewers dug and completed as aforesaid; and in case such person or persons shall fail to obey the requirements of such notice within ten days, that the trustees of the particular ward, or board of health, may contract for the work and have the same done at the expense of the city, and when completed the city solicitor shall collect in the name and for the benefit of said city, the total amount expended in such improvement from the proper person or persons by suit if necessary. Gen. Ord. 2, p. 9.

Gen. Ord. 1, p. 64.

DRAINS AND CULVERTS.

AN ORDINANCE to protect sewers, drains, and culverts.
[Passed November 1, 1859.]

Section 1. Be it ordained by the City Council of the city of Dayton, that it is an offense to place anything of whatever nature, which shall obstruct the flow of water in any sewer, drain or culvert in said city, or to suffer such obstruction to remain therein; and any person convicted on information by the marshal or street commissioner whose duty it is hereby made to file an information with the mayor as soon as the existence of said obstruction shall come to their knowledge of either of them, or on the complaint of any other person before the mayor of said city of placing such obstruction in any sewer, drain or culvert, or suffering the same to remain therein shall be fined in any sum not exceeding ten dollars and pay the costs of prosecution.

Sec. 2. That no person shall erect stable, pig-pen or other obstruction over any drain or sewer, or near any culvert so as to interfere with or prevent the cleaning of the same, and any owner of such stable, pig-pen or other structure now erected over any building or sewer or near any culvert which interferes with or prevents the clearing

thereof, who shall refuse to remove the same within ten days after being notified so to do by the city marshal, shall on conviction thereof before the mayor of said city, be fined not more than ten dollars and may also be fined five dollars per day until such stable, pig-pen or other structure shall be removed, and pay all costs of prosecution.

Gen. Ord. 1, p. 90.

NOISOME OFFENSES.

AN ORDINANCE to protect the health.

Adopted for the government of the board of health of Dayton, Ohio.

[Approved June 21, 1867.]

Section 1. [Privies, sinks, etc., to be disinfected.] All privy vaults after being emptied, also all night soil, and the contents of sinks, privies, vaults and cess-pools, and all noxious substances, shall, before removal or exposure from May 1 to October 1, every year, be disinfected and rendered inoffensive by the person or contractor who removes the same.

Sec. 2. [Putrid matter to be removed.] No butchers' offal or garbage, or any dead animals, nor any putrid or stinking animal or vegetable matter, shall be allowed to remain on the premises of any person, or to be thrown into any street or alley, place or receiving basin, or into any standing water, or upon the grounds or premises of any other person in the city.

Sec. 3. [Certain business forbidden.] No person shall be permitted to pursue any business or occupation in the city that is dangerous or detrimental to life or health, and every such business or pursuit shall be promptly discontinued.

Sec. 4. [Manner.] The rendering, heating or steaming of any animal or vegetable product or substance, generating noisome or unwholesome odors, or gaseous vapors, shall be conducted in steam-tight kettles, tanks or boilers, and such method adopted as will entirely condense, decom-

pose, deodorize or destroy the odors, vapors, and gaseous products; and no person shall be permitted to burn upon his premises, street, alley, or other places, any animal or vegetable substance, which will create noisome or unwholesome odors.

Sec. 6. [Permitting sinks, etc., to become offensive forbidden.] That no person shall draw off or allow to run on any ground, street or alley of this city, the contents, or any part thereof, of any vault, privy, cess-pool, hog-pen, or sink; nor shall any owner, tenant, or occupant of any building to which any vault, sink, privy, or cess-pool shall appertain or be attached to, permit the contents to become offensive.

Sec. 7. [Permit required for emptying vaults.] That no person shall empty, nor attempt to empty, any vault, sink, or cess-pool in the city, except pursuant to a permit therefor first received from this board.

Sec. 8. [Stables, etc., to be kept clean.] That every owner, lessee, tenant and occupant of any stable, stall, or apartment, in which any horse, cattle or swine, or any other animals shall be kept, or of any place in which manure or any liquid discharge of such animals shall collect or accumulate, shall cause said liquid and manure to be removed to some proper place, and shall at all times keep or cause to be kept such stall, stables and apartments and the drainage, yard and appurtenances thereof, in a cleanly and wholesome condition.

Gen. Ord. 1, p. 121. (Section numbers retained.)

POLLUTING STREAM.

AN ORDINANCE to prevent and punish pollution of the water above the water works belonging to the city of Dayton.
[Passed July 17, 1874.]

Section 1. [Unlawful to pollute, etc., water of Mad River.] Be it ordained by the City Council of the city of Dayton, that it shall be unlawful for any person or persons

to pollute, infect, or in any manner render impure the water of that part of the stream or river known as Mad River, or of any stream, drain, or water course emptying or flowing into the same which lies between the bridge across said river at Keowee Street in the city of Dayton and a point five miles above said bridge on said river.

Sec. 2. **[Penalty.]** Any person or persons violating any part of this ordinance shall be fined in any sum not exceeding one hundred dollars and not less than twenty-five dollars for the first offense, and double that sum for each repetition of such offense, or be imprisoned not more than thirty days.

Gen. Ord. 2, p. 10.

EXPECTORATING ON SIDEWALKS.

No. 5442.

AN ORDINANCE to prohibit spitting upon the sidewalks and public places.

[Passed November 23, 1900.]

Section 1. **[Spitting in certain places declared a nuisance.]** Be it ordained by the City Council of the city of Dayton, that it is hereby determined by said city council that it is and shall be a nuisance and unlawful for any one to spit or expectorate upon that portion of any sidewalk or public walk within the city of Dayton, which is paved with stone, cement, asphalt, or brick, or in any public, county, city, educational, state or government building, or in any public market or market house, or in any railroad station or depot, except in such receptacles as are provided therefor; and no person shall spit or expectorate upon said portion of any such sidewalk, or in any public, county, city, educational, state or government building, or in any public market house, or in any railroad station or depot, except in such receptacles as are provided therefor.

Sec. 2. **[Penalty.]** That any person violating the provisions of this ordinance shall be guilty of an offense, and upon conviction for the first offense shall be fined the sum

of one ($1.00) dollar, and shall pay the costs of prosecution; and upon conviction of any subsequent offense, shall be fined in any sum not less than one ($1.00) dollar and not exceeding ten ($10.00) dollars, and shall pay the costs of prosecution.

Gen. Ord. 3, p. 385.

EXPECTORATING IN STREET CARS.

No. 4876.

AN ORDINANCE to forbid expectoration in street-cars.
[Passed December 10, 1897.]

Section 1. [Spitting in street cars prohibited.] Be it ordained by the City Council of the city of Dayton, that it shall be unlawful for anybody to spit or expectorate upon the floor of any street car operated or run within the city of Dayton.

Sec. 2. [Penalty.] That any person violating the provisions of this ordinance shall, upon conviction thereof, be fined in any sum not exceeding five dollars, and shall pay the cost of prosecution.

Sec. 3. [Notice to be posted in cars.] That it shall be the duty of the street railroad companies to post notices in their cars, that it is unlawful to expectorate upon the floor of any street car, operated or run within the city of Dayton.

Gen. Ord. 3, p. 268.

DISTRIBUTING MEDICINE.

No. 5858.

AN ORDINANCE to further protect the health of the city.
[Passed November 21, 1902.]

Be it ordained by the City Council of the city of Dayton:

Section 1. [Distribution of medicines, etc., by samples prohibited.] That it is hereby declared to be a nuisance for any person, for advertising purposes, to distribute or give away, or cause to be distributed or given away, samples of medicines or medicated pills or mixtures in or upon

any street, highway or public place within the city of Dayton, or to cast or place, or cause to be cast or placed, any package or sample of medicine or medicated pills or mixtures, in or upon any door yard, door step, street, highway or public place within the city of Dayton. And it is hereby made unlawful for any person to do or cause to be done the things herein declared to be a nuisance.

Sec. 2. [Penalty.] Any person violating any of the provisions of this ordinance shall be guilty of an offense and shall, upon conviction thereof, be fined in any sum not less than ten ($10.00) dollars nor more than fifty ($50.00) dollars and shall pay the costs of prosecution.

Gen. Ord. 3, p. 454.

WEEDS.

No. 4956.

AN ORDINANCE to provide for the destruction of noxious weeds within the city.

[Passed September 2, 1898.]

Section 1. [Certain weeds declared to be a nuisance.] Be it ordained by the City Council of the city of Dayton, that any brush, rubbish or litter accumulating or permitted to lie upon any premises within said city, and all briars, thistles, burdock, dark cocklebur, wild mustard, jimson weed, dog fennel, lambs quarters, plantain, purslane, rag weed, smart weed, yarrow, spanish needles, wild carrot, wild parsnips, horse weed, sweet clover (white or yellow), velvet leaf, common mallow, iron weed, poison ivy, and teasle, all of which shall hereafter be comprehended in this ordinance under the term "weed," growing wild and uncultivated upon any premises in the city of Dayton, which may cause noxious exhalations or which may spread to other premises or which may be detrimental to the welfare of said city and its inhabitants and which may be offensive and injurious, are hereby determined and declared to be nuisances.

Sec. 2. [Duty to cut down and remove weeds.] That upon being notified by a street superintendent or other

proper official of said city so to do, any owner, tenant, lessee or occupant of any premises within said city, shall destroy and remove from such premises any such brush, rubbish, litter or weeds that may be thereon.

Sec. 3. [Penalty.] That any person having received the notice herein provided for, who shall fail to comply with same within five days, shall be guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding ten ($10.00) dollars, and shall pay the costs of prosecution.

Sec. 4. That an ordinance entitled, "An ordinance to provide for the destruction of noxious weeds growing within the city," passed August 7, 1896, is hereby repealed.

Gen. Ord. 3, p. 319.

SUNDRY NUISANCES.

AN ORDINANCE for the punishment of offenses.
[Passed September 16, 1842.]

Sec. 1. [Placing animals, etc., in street.] That if any person shall place, or cause to be placed in any street, lane, alley, lot, common or water course within this city the carcas of any dead animal or parts or fragments thereof, or any putrid or unsound beef, pork, fish or other substances tending to corrupt the atmosphere, and shall leave the same exposed or unburied, such person so offending, on conviction thereof, shall pay a fine not exceeding twenty dollars with costs.

Sec. 2. [Penalty for not removing.] If any animal shall die in the possession of any person in the city it shall be the duty of such person to cause the same to be removed without the limits of the city, or to be buried, so that the same shall not corrupt the air or cause any injury to the health of the city; and if any person in whose possession any animal shall die as aforesaid, shall neglect to cause the same to be removed or buried as required by this section of this ordinance, such person so neglecting, on conviction therof, shall pay a fine not exceeding five dollars and costs.

Sec. 3. **[Stagnant water.]** If any person shall suffer stagnant water, filth, manure, or any noisome or offensive liquid or substance, which may be injurious to the health of any other person, or which may corrupt the atmosphere, to remain upon his or her premises within the city, such person on conviction thereof shall pay a fine not exceeding ten dollars and costs.

Sec. 5. [Dirt, sweepings, etc., not to be placed in streets, alleys, etc., or let fall, leak, etc., from wagons; penalty; duty of police.] (As amended by Ordinance No. 3371, passed October 7, 1892.) No person shall throw, cast, discharge, place or deposit any dirt, paper, filth, sweepings of any store, house, shop, office or of any building, or any ashes, shavings, or filthy water or foul or nauseous liquid of any kind, slops, offal, straw, wood, stones, earth, manure, refuse matter or rubbish of any kind whatever in or upon any pavement, street, lane, alley or public grounds within the said city of Dayton, nor shall any person cast or throw, or let fall, or leak or spill from any curb, wagon or other vehicle, any of the substances aforesaid, in or upon any such street, lane, alley or public grounds aforesaid save and except as shall be appointed and permitted by the city council or board of city affairs of said city. Every person violating this ordinance or any provision thereof shall on conviction thereof before the police court, of said city of Dayton, pay a fine not exceeding ten dollars, and costs of prosecution and shall be committed to the workhouse until such fine and costs are paid.

It is hereby made the duty of the officers of the police force of said city of Dayton, to see that the provisions of this ordinance are fully carried out and enforced. Gen. Ord. 3, p. 84.

Sec. 6. [Soap boilers.] If any soap boiler, tallow chandler, tanner, or other person shall make, keep, collect or use upon his or her premises within this city, any stale, putrid, stinking fat or grease, or other noisome or offensive

matter or substance, such person, on conviction thereof, shall pay a fine not exceeding ten dollars and costs.

Sec. 7. [Hog pens becoming foul.] If any distiller or other person shall collect, or keep any hog or hogs, in any pen or otherwise confine any hog or hogs within this city, so that the same shall become noisome or offensive to other persons residing in the neighborhood, such person, on conviction thereof, shall pay a fine not exceeding ten dollars and costs. Gen. Ord. 1, p. 51. (Section numbers retained.)

Sec. 35. [Befouling or injuring well, pump, etc.] If any person or persons, shall abuse, injure, befoul, or corrupt any public well, cistern, pump, bridge, engine house, or any other public property belonging to the corporation of this city, any person so offending, on conviction thereof, shall pay a fine not exceeding one hundred dollars and costs.

Gen. Ord. 1, p. 51 seq.

THROWING FILTH INTO STREETS.

AN ORDINANCE to prohibit the throwing or running of waste water or filthy substances into streets, alleys, drains, or sewers.

[Passed December 29, 1865.]

Section 1. [Throwing filth into streets, etc., forbidden.] Be it ordained by the City Council of the city of Dayton, That it shall be unlawful for any person or persons to throw, or run, or cause to be thrown or run, any waste water or filthy substance upon, or into any street, alley, drain or sewer, within the corporate limits of said city.

Sec. 2. [Penalty.] That any person or persons violating the first section of this ordinance, on conviction thereof before the mayor, shall be fined in any sum not exceeding twenty dollars, together with the costs of prosecution for each offense.

Sec. 3. [Further.] That any person or persons who shall continue to throw, or run waste water or any filthy substance upon, or into any street, alley, drain or sewer, as herein forbidden, shall be liable to a new prosecution

for every twenty-four hours he or they shall so continue the original offense.

Sec. 4. [Duty of police.] It shall be the duty of the street commissioner to give information of known violations of this ordinance, and the city marshal and all other officers of the city police shall have full power, and it is hereby made their duty to arrest offenders against the same and bring them before the mayor for trial.

Gen. Ord. 1, p. 108.

THROWING FILTH INTO ALLEYS.

AN ORDINANCE to prevent the casting of filth and rubbish into the public alleys and to provide for the removal of the same.

[Passed January 7, 1870.]

Section 1. [Filth, etc., not to be placed in alleys.] Be it ordained by the City Council of the city of Dayton, that it shall be unlawful for any person to place or cast any rubbish or filth of any kind or description in or upon any alley within the limits of this city, or to cause, order or direct any other person to place or cast any filth or rubbish in or upon any such alley.

Sec. 2. [Health officer's duties in such cases, etc.] It shall be the duty of the health officer, appointed by the board of health, in all cases where filth or rubbish has been, or shall hereafter be cast into or upon any alley in this city, to serve, or cause to be served, a written notice upon the owner or owners, or his, her or their agent or agents, or the occupier or occupiers of the lots and lands bounding or abutting upon such alley requiring the person or persons so notified to remove all filth and rubbish from the portion of such alley upon which the lots or lands owned, controlled, or occupied by such person or persons, shall bound or abut, and thereupon it shall be the duty of such person or persons so notified, to remove such filth and rubbish within three days from the date of the service of said notice.

Sec. 3. [Penalty.] Any person or persons violating the provisions of the first section of this ordinance, or who shall

refuse or neglect to remove all filth and rubbish from the portion of such alley upon which the lot or lands controlled, or occupied by such person or persons, shall bound or abut, within three days next ensuing from the date of the service of the notice provided for in the second section of this ordinance, shall be deemed guilty of a misdemeanor, and upon conviction thereof in the mayor's court, shall be fined in any sum not less than five nor exceeding fifty dollars with the costs of prosecution.

Gen. Ord. 1, p. 162.

DEAD ANIMALS.

No. 5267.

AN ORDINANCE to regulate the killing of sundry animals and the disposition of their carcasses.

[Passed July 6, 1900.]

Section 1. [Killing animals in city declared a nuisance; exception.] Be it ordained by the City Council of the city of Dayton: That it is hereby declared to be a nuisance, and unlawful, for any person, except as hereinafter provided, to kill any horse or mule, or any cattle, or swine or sheep which is unfit for food, at any place within said city, except at the city crematory, in which case the carcass shall be immediately incinerated; provided, however, that when it is impracticable to convey beyond the city limits any old, decrepit, diseased or disabled animal of the aforesaid kind, which it is necessary to destroy, that the Superintendent of Police of said City may grant a permit to the owner or person having charge thereof, to kill the same at a designated time and place within said City, the carcass thereof to be immediately and directly hauled either to said crematory and incinerated, or beyond the limits of said city, and any person to whom such a permit is given, shall comply with the terms thereof as above set forth, and for failure so to do, shall be guilty of an offense. Any person obtaining such a permit shall pay twenty-five cents therefor, which shall be placed in the Police Pension Fund of said City.

Sec. 2. [**Unlawful to render animals in city.**] That it is hereby declared a nuisance and unlawful for any person to skin, render or dismember the carcass of any animal of the kind aforesaid, at any place within said city, or to do anything therewith, except to convey it beyond the city limits or to said crematory for incineration.

Sec. 3. [**Removal of dead animals.**] That upon the death within said city of any animal of the kind aforesaid, except such as may be killed at said crematory or pursuant to a permit provided for in section 1 hereof, the owner, or person having charge thereof shall, within one hour from the death of such animal, report same at police headquarters of said city, and shall then procure from the officer in charge at said headquarters a license for a person, who shall be named therein, to remove the carcass of such animal, within a time to be therein stated, either outside of the city limits, or to said crematory for incineration, and the person named in such license shall make a return to the said Superintendent of Police of his proceedings thereunder, such a return to be made within ten hours after the expiration of the time named in such license for such removal. The person to whom such license is issued shall pay twenty-five cents therefor, which shall be placed in the Police Pension Fund of said city.

Sec. 4. [**Delay in removing dead animals.**] When the carcass of any animal of the kind aforesaid shall have been loaded upon a vehicle for removal, it shall be immediately hauled, and without stopping, either beyond the city limits, or to said crematory, as the case may be; provided, however, that if an accident should happen, rendering a stoppage absolutely necessary, that the person named in such license to remove such carcass, or the driver upon his vehicle, shall, within one hour from the happening of such accident, notify the police headquarters thereof, and shall proceed with the removal of such carcass within such reasonable time after such accident as the officer in charge at police headquarters may designate.

Sec. 5. [Dead animals to be taken to the crematory.] (As amended by ordinance No. 5481, passed February 15, 1901.) That no carcass of an animal of the aforesaid kind, except as hereinafter provided, shall be brought from without the city limits to within the city limits, except to the crematory for incineration, and then only upon a permit to be issued by the said Superintendent of Police, which permit shall specify the name of the person to whom the said permit is issued, and the time within which the said carcass may be taken to the crematory. And the person to whom said permit is issued shall, within ten (10) hours from the expiration of the time therein named, make return to the Superintendent of Police of his proceedings thereunder. Twenty-five cents shall be paid to the Superintendent of Police for every such permit, which shall be placed in the Police Pension Fund of said city. Provided, however, that where an animal of the aforesaid kind, except a horse, mule, or beef cattle, has died or been killed outside of the city limits, or at any public stock yards within the city limits, and the owner thereof desires to dispose of same at some other point without the city limits and finds it necessary to pass through said city, or part thereof, to reach the desired destination, the owner or his, their, or its agent, may haul such carcass or carcasses through said city without stopping, and shall not be required to procure or pay for a permit so to do; but no stop shall be made within said city with such carcass or carcasses by the person so hauling the same through it. Gen. Ord. 3, p. 390.

Sec. 6. [Penalty.] That any person violating any of the provisions of this ordinance, or doing any of the things herein declared to be unlawful, or a nuisance, or failing to make a return of his proceedings under a permit or license granted to him hereunder, shall be guilty of an offense, and upon conviction thereof, shall be fined in any sum not exceeding fifty ($50.00) dollars, and shall pay the costs of prosecution, and may be imprisoned in the Work House of said city for any period not exceeding ten (10) days.

Gen. Ord. 3, p. 368.

AN ORDINANCE to regulate the removal of dead animals in the corporate limits of the city of Dayton.

[Passed October 7, 1881.]

Section 1. [Dead animals not to lie in streets, etc.] Be it ordained by the City Council of the city of Dayton: That it shall be unlawful for the owner or possessor of any animal which shall have died from disease, or been accidentally or designedly killed, except for food, to suffer the same to lie on any street, lane, alley, avenue, or other public places, or on any private lot or premises within said city, without immediately reporting the same to the Mayor, and a notice to the Mayor, or Mayor's clerk, either verbal or written, shall be sufficient and lawful.

Sec. 2. [Unlawful to remove without permit.] (As amended December 8, 1882.) That it shall be unlawful for any person to remove or convey any dead animal in or through any of the streets, lanes, alleys, avenues, or other public places within the limits of said city, unless such person so removing or conveying the same as aforesaid, shall have procured a permit so to do from the Mayor of said city, prescribing such terms and conditions as may be deemed essential to the health and interest of the city, but nothing herein contained shall apply to any person who is employed by the city to remove the same, provided that no permit shall be issued by the Mayor, unless the person so applying shall pay to the Mayor the sum of five dollars for issuing such permit, and a permit shall be issued for each and every animal removed as aforesaid, and fifty cents of such amount shall be retained by the Mayor, and the balance of said sum be paid to the person who has a contract with the city to remove the dead animals from the city limits. Gen. Ord. 2, p. 175.

Sec. 3. [Not to apply to stock which died outside of city.] (As amended December 8, 1882.) The preceding section of this ordinance shall not apply to persons who have stock which may have died previous to arrival in the

city or in transit through the city, provided the dead animals are promptly removed by such persons from the city limits before becoming offensive, otherwise the proper officer shall promptly remove the same, provided the person or persons removing the dead animals shall first procure a permit from the Mayor, stating under oath where the animal died, and if outside the city limits, said permit shall be granted free of charge. Gen. Ord. 2, p. 175.

Sec. 4. [Penalty.] Any person violating any of the provisions of this ordinance shall, on conviction thereof, be fined in any sum not exceeding twenty-five dollars, nor less than five dollars, together with costs of prosecution.

Gen. Ord. 2, p. 145.

EXPLOSIVES.

No. 2621.

AN ORDINANCE to regulate the keeping, sale, and storage of gunpowder and other explosives.

[Passed August 29, 1890.]

Section 1. [License to sell explosives.] Be it ordained by the City Council of the city of Dayton, That no person or persons shall sell or keep for sale or store, within said city, any gunpowder, cannon powder, giant powder or blasting powder, without having obtained from the mayor a license so to do.

Application for license to sell, keep for sale or store said powders or any of them, shall be made to the mayor, who shall issue such license to such applicants as appear to him to be proper persons to sell, keep for sale or store, said powder.

The mayor shall receive fifty cents for each license so issued, to be paid by the applicant receiving same.

Such license shall permit the person or persons therein named, to sell, keep for sale or store, any or all of said powders, for the space of one year, at the particular store or place named, and which shall be named in any such license, and at no other place or store; provided, however, that no

licensee or licensees aforesaid, shall keep for sale or store at any one time, within said city, more than fifty pounds, in the aggregate, of any or all of said powders, in addition to such as may be contained in loaded shells for shot guns and cartridges for rifles and pistols, as hereinafter provided, and said powder not so contained in such loaded shells or cartridges, shall be placed, and kept in stone jugs, with tight stoppers, or in tin canisters, with safe and sufficient covers.

Nothing herein contained shall be so construed as to prevent any person or persons from conveying said powders, or any of them, through the streets to some place of deposit outside of the said city, or to a railroad depot for immediate shipment, provided such powder be put up in tight and secure kegs, barrels or casks.

Any licensee as aforesaid, may keep for sale and sell loaded shells and cartridges as aforesaid, containing in the aggregate, powder not to exceed five pounds, in addition to said fifty pounds, and no more.

Any person or persons violating any of the provisions of this section, shall be fined in any sum not exceeding fifty dollars, and shall pay the costs of prosecution, and a licensee shall in addition thereto, have his or their license revoked.

Sec. 2. [Inspection of stores by fire department.] The mayor shall notify the chief of the fire department of all licenses issued under this ordinance, and of the name of the licensees, and of the stores and places where said powders are permitted to be sold, kept for sale or stored.

The said chief or his assistant, shall, from time to time, inspect such stores and places, to ascertain whether the provisions of this ordinance are complied with, and no person or persons in charge or control of any such place or store, shall obstruct said chief or his assistant in the performance of said duty.

Any person or persons violating the provisions of this section shall be fined in any sum not exceeding twenty-five dollars, and shall pay the costs of prosecution.

Sec. 3. [Persons not licensees limited to two pounds.]

No person or persons, other than licensees under this ordinance, shall have or keep within said city, more than two pounds, in the aggregate, at any one time, of any or all of said powders.

Any person or persons violating the provisions of this section, shall be fined in any sum not exceeding fifty dollars, and shall pay the costs of prosecution.

Sec. 4. [Dynamite, nitro-glycerine and gun-cotton not allowed in city.] No person or persons shall have or keep for any purpose, within said city, any dynamite, nitro-glycerine or gun-cotton.

Any person or persons violating this section shall be fined in any sum not exceeding fifty dollars, and shall pay the costs of prosecution.

ENTRANCE OF PREMISES AUTHORIZED.

AN ORDINANCE to further prevent injury or annoyance from anything dangerous, offensive, or unhealthy, by authorizing the entering upon and inspection of premises, by the board of health or sanitary police.

[Passed July 14, 1873.]

Section 1. [Premises may be entered.] Be it ordained by the City Council of the city of Dayton, that for the purpose above mentioned the board of health are hereby authorized to order the sanitary police to enter upon and inspect any house, yard, lot, locality, or premises in said city, or in any portion or district thereof.

Gen. Ord. 1, p. 215.

HYDROPHOBIA.

Sec. 17. [Animals having hydrophobia to be killed; how buried.] That every animal which is mad, or has the hydrophobia, shall, by the person owning the same or having the possession, charge, or control thereof, be at once killed; and every animal that has been exposed to such disease shall be at once confined in some secure place, for such length of time as to show that such exposure has not

given such animal said disease, and so as to avoid all danger to life or health; and the dead body of any animal that died of such disease shall be at once, by such person, buried not less than three feet under ground, outside of the city.

Gen. Ord. 1, p. 121. Passed June 21, 1867.

DIVISION 21.

GENERAL ORDINANCES ON SMOKE REGULATION.

No. 7176.

AN ORDINANCE to regulate and compel the consumption of smoke within the city of Dayton, State of Ohio, and to prevent injury and annoyance from the same; and to provide for a bureau of smoke prevention.

Be it ordained by the Council of the City of Dayton, State of Ohio:

Section 1. [Establishment of a bureau of smoke inspection.] That there is hereby established a Bureau of Smoke Prevention, which shall be under the control and direction of the Mayor of the City of Dayton, State of Ohio. Spec. Ord., vol. 9, p. 219.

Sec. 2. [Supervising engineer.] Said bureau shall consist of a supervising engineer, and such assistants and other employes as council may from time to time provide. Spec. Ord., v. 9, p. 219.

Sec. 3. [Appointment.] The supervising engineer and all assistants and employes of said bureau as shall be provided for hereafter by the council shall be appointed by the Mayor, and said supervising engineer shall receive a salary at the rate of fifteen hundred ($1,500.00) dollars per year, payable in equal semi-monthly installments, and before entering upon the discharge of the duties of his office shall execute a bond to the city of Dayton in the sum of five thousand ($5,000.00) dollars, with sureties to be approved by the Mayor, conditioned for the faithful performance of the duties of his office. Spec. Ord. 9, pp. 107-108. Passed March 2, 1908.

Sec. 4. [Qualifications.] The supervising engineer so appointed shall be a person well qualified from practical

experience in the design, construction and operation of furnaces, boilers and superheaters, and other apparatus in which fuel is burned for power, heating or other purposes, together with their manner of installation and to be able to judge of their ability to completely consume the fuel to be used; and in addition thereto shall be, while such supervising engineer, the holder of a stationary engineer's license as provided under the laws of the state of Ohio. No person employed in said bureau shall be directly or indirectly interested in the manufacture, ownership or agency of apparatus in which fuel is used for steam generating, heating or other purposes, or either directly or indirectly interested in the mining, sale, preparation or distribution of any fuel. Spec. Ord. 9, pp. 107-108. Passed March 2, 1908.

Sec. 5. [Emission of smoke a nuisance, when; penalty.] The emission of dense black or gray smoke within the corporate limits of the city of Dayton, from any smokestack of any locomotive, steamboat, steam tug, steam roller, steam derrick, steam pile-driver, tar kettle or other similar machine or contrivance, or from any smokestack or any chimney of any building or premises in which fuel is used for power or heating purposes, or where fuel is consumed for purposes other than for power or heating shall be deemed and is hereby declared to be a public nuisance. Any person or persons, firm or corporation, owning, operating or in charge of or in control of any locomotive, steamboat, steam tug, steam roller, steam derrick, steam pile-driver, tar kettle or other similar machine or contrivance, smokestack chimney of any building or premises in which fuel is used for power or heating purposes or where fuel is consumed for purposes other than for power or heating from which is emitted any dense black or gray smoke except for a period of five minutes in any one hour, during which and only when the fire-box thereof is being cleaned out or a new fire is being built therein, shall be deemed guilty of a violation of this ordinance, and upon conviction thereof shall be fined not less than $10.00 nor more than $50.00 for the first offense,

and not less than $20.00 nor more than $100.00 for the second and each subsequent offense, and each day of emission of dense black or gray smoke shall constitute a separate offense.

Provided, however, that in such arts wherein fuel is employed for generating heat, and which are incapable of being and unknown to be, carried on and conducted and so proven to be incapable of being conducted without the emission of dense black or gray smoke, the penalties wherein [herein] provided for dense black or gray smoke emission shall not be exacted unless the carrying on of such arts is attended with dense black or gray emissions in excess of the minimum degree capable of being obtained by careful and skillful management, correct appliances, and fuels usable in such arts.

Sec. 6. [Permits issued.] No new plant or part thereof nor any reconstruction of an old plant or part thereof wherein fuel is used in producing power or heat or either of them, nor any new chimney connection or any other means of creating draft connected with a steam plant or other apparatus wherein fuel is burned, shall be erected, used or maintained in said city, until the plans and specifications thereof have been filed by the person, firm or corporation owning the same in the office of the supervising engineer and approved by him. Such plans and specifications shall show the amount of work and the amount of heating to be done by such plant including adequate provisions for the complete combustion of the fuel to be used, and for the prevention of smoke, and a statement of the kind of fuel to be used. Such plans and specifications shall also show that the room, apartment or basement in which such plant is to be located, is provided with doors, windows, air shaft, fans or other means of ventilating sufficient to prevent the temperature of such room, apartment, basement or other portion of such building wherein fuel is to be burned in suitable apparatus from arising to a point higher than 120 degrees Fahrenheit, and that the atmosphere in such apartment

wherein such apparatus may be located may be entirely renewed every ten minutes, upon the approval of such plans and specifications by the supervising engineer, a permit shall be issued by said supervising engineer for the erection of such plant, or for the reconstruction of an old plant, and a duplicate set of said specifications and plans provided for in this section shall be left on file in the office of said supervising engineer.

Sec. 7. [Permit from supervising engineer.] It shall be the duty of every person, firm or corporation contemplating the construction or erection of any new plant or the reconstruction of an old plant wherein fuel is used for producing heat or power or either of them, or of any chimney or smoke connection or any other means of creating draft connected with a steam plant, or any other purpose wherein fuel is burned, to obtain a permit from the supervising engineer, as provided for in section six (6) of this ordinance before any part or portion of the proposed new plant or reconstruction of an old plant has been begun, or before such plans are used; and a failure to obtain such permit as provided therein shall constitute a violation of this ordinance, and any person, firm or corporation convicted thereof, shall be fined any sum not less than $50.00, nor more than $200.00.

Sec. 8. [Permit does not exempt from prosecution.] The issuance or delivery by the supervising engineer to any person, firm or corporation of a permit as provided for in the preceding two sections shall not be held to exempt any person, firm or corporation to whom such permit was issued or delivered, or that he is in possession of or in control of any such permit from prosecution for any violation of the provisions of this ordinance, in relation to or concerning the issuing or emission of dense black or gray smoke caused or permitted by any such person, firm or corporation.

Sec. 9. [Plants to be constructed in accordance with permit.] All new plants or part thereof, or reconstruction of an old plant or any part thereof wherein fuel is used

for producing heat and power or either of them, any new chimney smoke connection or other means for creating draft connected with a steam plant or other apparatus wherein fuel is burned, the plans and specifications of which have been filed in the office of and approved by the supervising engineer, and a permit issued for the construction of such plants, shall be erected in strict conformity to the plans and specifications as filed in such office, and no such plant, chimney or smoke connection shall be erected, used or maintained, unless built in strict accord with such plans and such specifications, and any person, firm or corporation using such new plant or part thereof, or reconstruction of an old plant, or part thereof, wherein fuel is used for producing power and heat, or either of them, or any new chimney smoke connection or other means for creating draft, connected with a steam plant, or other apparatus wherein fuel is burned, using such plant in violation of the terms of this section, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined any sum not less than $50.00 nor more than $200.00.

The supervising engineer shall pass upon all plans and specifications for the construction of a new plant or the reconstruction of an old plant wherein fuel is burned in apparatus for the purpose of generating heat and power or either of them, and when such plans and specifications are approved by him as fulfilling adequate requirements for the complete combustion of fuel for the prevention of dense black or gray smoke emission, and in all respects as provided in sections six (6) and seven (7) of this ordinance, he shall issue a permit for such construction of such new plant or reconstruction of an old plant to said person, firm or corporation making application for the same.

Sec. 10. [Causes of dense smoke shall be investigated.] The supervising engineer shall investigate the causes for the emission of dense black or gray smoke, and shall institute prosecutions against such persons, firms or corporations as are by him found to be violating the provisions of

this ordinance. He shall not grant temporary immunity from prosecution to any person, firm or corporation by failure to institute prosecution where a violation of the provisions of this ordinance is found and where a change in the plans has been undertaken.

He shall obtain and preserve for the use of the public, and for his successors in office, such drawings, specifications, copies of permits, records of smoke emission, causes for dense black and gray smoke emission, and such other information gathered during the discharge of the duties of his office, as apply to each of the plants in which fuel is used for the generation of heat. He shall carefully number and index and file for reference all such information collected in systematic shape, so as to be readily consulted, and be particularly useful in the determination of the relative merits of types of combustion of furnaces and heat absorbers and appliances thereto.

He shall not specifically recommend the adoption of any boiler, furnace or combination of the two or attachments thereto, but shall show to all applicants the records of the concrete performances in the prevention of smoke emission of such plants as are already installed, and shall give such other necessary instructions and information to all persons who may apply therefor as shall be instrumental in carrying out the provisions of this ordinance.

He shall provide carefully indexed, suitable diagrams, drawings and other information as shall typify the best methods for providing for the complete combustion of fuel, and shall also collect, compile and index all other literature, data and information as shall aid in the selection of the best appliances and methods for the prevention of smoke.

Sec. 11. [Right to enter premises.] The supervising engineer, assistants, or other employes of the bureau of smoke prevention are hereby authorized to enter any premises or building wherein are located any steam plant, furnaces, boilers, superheaters, or other apparatus in which fuel is burned for power, heating or other purposes, for the

purpose of inspection, instruction or other matters pertaining to the duties of his office, and any person, firm or corporation hindering him in the discharge of such duties, or obstructing, hindering or impeding him, or any other assistant or employee of such bureau in such inspection, instruction or other matters pertaining to the duties of such office, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than $10.00 nor more than $50.00.

Sec. 12. [Penalty.] All prosecutions for the violation of any of the provisions of this ordinance against persons, firms or corporations shall be instituted by the supervising engineer in the name of the city of Dayton; provided, however, that no prosecutions shall be brought for the violation of section five (5) of this ordinance until there has been served upon the persons, firms or corporations alleged to be violating the provisions of said section a notice in writing signed by the supervising engineer, directing such persons, firms or corporations to desist from such violation of said section.

Sec. 13. [Same.] In addition to the penalties herein provided, the solicitor of said city of Dayton is hereby directed and authorized upon the complaint of the supervising engineer to institute such proceedings in courts of competent jurisdiction as will prevent the continued violation of the terms of this ordinance.

Sec. 14. No prosecution under the provisions of section five (5) shall be begun, or any penalties inflicted therefor, until after December 1, 1907.

Spec. Ord. 7, p. 533.

PART III.

REGULATIONS OF THE BOARD OF HEALTH.

DIVISION 22.

REGULATIONS RELATING TO PLUMBING.

Adopted July 28, 1908.

REGULATIONS of the Board of Health prescribing rules and regulations governing plumbing and sewering within said city.

Section 1. [License to be obtained.] No person, or persons, firm or corporation, shall in the city of Dayton, engage in the business of plumbing until he, it, or they shall have obtained a license so to do from the Board of Health of the said city.

Sec. 2. [Application; bond.] Applications for license shall be made on blank forms prescribed and provided by the said Board of Health and shall be accompanied with a bond, with surety to the approval of said board in the sum of five hundred dollars ($500.00). Conditioned that the applicants will save said city harmless from all damage that may arise from negligence of such applicants, and that they will conform to these rules and to such other requirements as said board may make in relation to plumbing. Licensed sewer tappers or sewer contractors will not be allowed to make connections to plumbing work.

Sec. 3. [Permit to be issued.] No plumbing work shall be done in said city, except in case of repairs or leaks, without a permit being first issued therefor by said Board of Health. Applications for permits shall be made on blank forms provided by said board and each application for a

permit shall be accompanied with a fee of fifty cents (50 cents) and an additional charge of twenty-five cents (25 cents) for each trap or vented fixture, up to and including ten fixtures and for each trap or vented fixture over ten a further charge of ten cents (10 cents) be made, to pay the expense of issuing and inspecting same, which fee shall be deposited in the treasury of said city to the credit of the Sanitary Fund. All jobs changed from cess-pool to sewer to be inspected and tested as the occasion may require.

Sec. 4. [Inspector to approve plans.] No such permit shall be issued until suitable plans and a description in duplicate of the work to be done have been submitted to the inspector of plumbing, hereinafter designated as the inspector, and have been approved by him.

Sec. 5. [When work to begin.] If the work is not begun under the approved plans within six months from the date of approval, such approval shall be deemed to have expired by limitation.

Sec. 6. [Record to be kept.] The inspector shall keep a record of all plans and descriptions submitted to him hereunder, together with his action thereon, and he shall also make a record of the plumbing in each building in the city of Dayton.

Sec. 7. [Inspection.] The inspector shall be notified by the person doing same when any plumbing work is ready for inspection. All parts of every plumbing system shall be made perfectly gas tight. All soil waste and back air ventilation pipes, hereinafter designated "vent pipes," when placed in position shall be tested by the water test in the presence of the inspector. All plumbing systems when completed, and before being used, shall be tested by a smoke test in the presence of the inspector, and if he is satisfied that the work is done in accordance with these rules, he shall issue a certificate of approval, but otherwise shall disapprove same, which shall not be put to any use until it has been altered as prescribed by him and received

his approval. All plumbing work shall be left uncovered and convenient for inspection until examined and approved by the inspector.

Sec. 8. [Soil pipe.] All soil pipe shall be of extra heavy cast iron ¼-inch thick, well coated inside and out with coal tar or pitch.

Sec. 9. [Same.] The main soil pipe of any building shall extend beyond and 3 feet away from the foundation wall thereof, and shall be continued up inside of the building to the roof, increased to one size larger, and extend not less than two feet through the roof, and any vertical branch rising more than ten feet, or any lateral branch running more than 25 feet from the main line shall be continued to a point above the roof in the same manner as required for the main soil pipe. Where flat roofs are used for any purpose all soil or vent pipes shall extend not less than six feet above same. Soil or vent pipes must not open within 15 feet of the ground nor within 20 feet of a window, unless three feet above same, and such openings shall be protected by screens.

Section 10. [Same.] Soil pipe shall run with a fall of not less than ⅛ of an inch to each foot. Where the direction of soil or waste pipes is changed, and at the end of each horizontal line, extra heavy trap screws or trap screw ferrules of the same size as that of the pipe shall be placed. All changes in the direction of a line of soil pipe shall be made with ⅛ curves. All connections shall be made with "Y's" if possible, and in all cases must be made with sanitary fittings.

Sec. 11. [Ventilation.] Every plumbing fixture must be separately trapped and every trap must be provided with back air ventilation. Each 4-inch trap requires a 2-inch vent; three may be vented from one 2-inch main vent line. Each 2-inch trap requires an 1½-inch vent; three may be vented from 1½-inch main vent line. Five 1¼-inch traps may be vented from one 1½-inch main vent line; two 1¼-

inch traps may be vented from one 1¼-inch main vent line. A battery of four wash stands may be connected to one trap. Vents must be connected to traps at their crown, or at a point not more than 8 inches therefrom. When single catch basins are set level with the ground outside of and ten feet away from any building their traps need not be ventilated.

Sec. 12. [Vent pipes.] Vent pipes shall be extra heavy coated cast iron, galvanized wrought iron, lead, or brass, and they shall be run with a fall and in such a way that they cannot be used for waste pipes. They may be connected together not less than one foot above the top of the fixtures ventilated thereby, provided they are large enough to give a plentiful supply of air to each trap. They must be increased in size every thirty feet of their length, and must be connected to the soil pipe one foot above the top of the highest fixture, or they may be run to roof, increased to one size larger and extend not less than two feet through roof. Vent pipes should never run horizontally below the top of a fixture for any greater distance than is absolutely necessary, and also avoid flat vents.

Sec. 13. [Same.] No vent pipe outside of the building shall be less than two inches in size. Vent pipes shall not be connected into the side of horizontal waste pipes, and they shall be provided with trap screws or union joints in an accessible place near the trap ventilated thereby.

Sec. 14. [Waste pipes.] Waste pipes shall be of extra heavy coated cast iron, lead or brass, and no waste pipe shall be less than 1¼ inches in diameter. Lead pipe, bends and traps of three inches or more in diameter shall be made of lead having a weight not less than eight pounds to the square foot, and all lead waste and vent pipe shall have a weight equal to that known as "light." All branch joints in lead waste and vent pipes shall be made in the form of a "Y."

Sec. 15. [Traps.] Traps shall be provided with trap screws in an accessible place, and shall be placed as near the fixture as practicable, and in no case more than two feet therefrom, excepting floor drains.

Sec. 16. [Same.] Fixtures that are not in constant use must be provided with mechanically sealed traps.

Sec. 17. [Sinks.] Sinks in boarding houses and meat shops shall be provided with grease traps.

Sec. 18. [Water closets.] Water closets shall be of an approved pattern and shall be provided with tanks or other approved flushing device, with a capacity sufficient to supply four gallons of water at each flush, and they shall be placed in an apartment with a window leading directly to the outer air or they shall be provided with suitable local ventilation, such as may be approved by the plumbing inspector.

Sec. 19. [Same.] Frost-proof closets are intended for outside use only; and as it is reasonably certain that they will never be clean, no matter how constructed or what precautions are taken to guard against their becoming foul, they are to be used in outbuildings only. Therefore no permit shall be issued to set a frost-proof closet inside of any house. Frost-proof closets placed in a yard in connection with a building in which there is a 4-inch vertical line extending through the roof, and connected with the sewer that serves the building, will be considered a part of the plumbing system of the said building, and if the closet branch does not leave the main line more than 10 feet vertically or 25 feet laterally, it may be vented with a 2-inch pipe.

Sec. 20. [Same.] Joints between water closet bowls and soil pipes shall be made by means of a brass flange soldered to the lead soil pipe and united to the bowl with bolts, white lead and putty.

Sec. 21. [Pipes to be supported.] All soil, waste and vent pipes shall be constructed in as direct and concentrated

a manner as possible, and shall be properly fastened and supported.

Sec. 22. [Joints.] All joints in lead pipe must be wiped and joints between cast iron and wrought iron pipe must be screw joints.

Sec. 23. [Waste pipes.] Refrigerator wastes or steam blow off pipes must not be connected directly to the house drain.

Sec. 24. [Vent pipes.] No stuffing box or slip joint connections will be permitted on vent pipes.

Sec. 25. [Same.] No saddle hubs, rubber "L's" or connections shall be used in any part of the drainage or vent pipe system.

Sec. 26. [Strainer to be used.] Outlets of all fixtures except water closets shall be provided with a fixed strainer, only closets with individual flush tanks or valves will be permitted, range closets strictly forbidden.

Sec. 27. [Water traps.] Floor drains inside of a building must be provided with a water seal trap, and the said trap must be reinforced by a back water trap, of some approved pattern.

Sec. 28. [Permits; repairs.] Permits must be taken out for every building and every job, except in case of repair. A repair job is one in which a leak is stopped, an old fixture fitting or piece of pipe is replaced with a new one, a waste pipe is forced, closet tanks or other fixtures are repaired or put in order, etc.

Should it be necessary to take down a waste pipe for the purpose of cleaning, or a fixture or slab in order to get behind or under them to repair or force pipes or fittings, the old material, if in good condition, may be replaced. Should it, in the course of such a job be found convenient or expedient to put in a "clean out plug," "Y" or an ⅛ bend, in the place of an "L" or a "T," to make the flow more direct or to render the waste less liable to stoppage, the

job would not, for that reason, be considered of enough importance to require a permit or an inspection. Although repair work does not require a permit or an inspection, it is governed by the rules the same as other work, so in replacing an old closet bowl with a new one, the new bowl should be set with a flange, a new trap or piece of lead pipe should be wiped in, and the old black wrought iron pipe should be replaced with galvanized iron.

Sec. 29. [Permit; when required.] All new jobs, no matter what may be their size or character. All jobs of remodeling, extension, alteration or reconstruction. A remodeling job may consist of overhauling all the plumbing in a building, or only a part. Should it at any time be desired or necessary on account of an order of the Board of Health, or for any other reason, to change the construction, style or system of a soil, waste or vent pipe, or a number of them, to add a fixture of any description in any place, to add any number of feet of pipe of any kind in a straight line or otherwise, to install traps and vent pipes where there were none, to move a fixture or lot of pipe from one place to another, to tear down for any reason, and reconstruct in the same place, or any work that changes the character of the existing system in any respect, or any extent, except as mentioned in the case of repair, requires that a description of the work proposed to be done be filed and a permit obtained. Any old work condemned or ordered corrected by the inspector, should be reported by the plumber employed to do the work, whether it is of a character requiring a permit or not. In case of a plumber being employed to do part of a job, and there is some question as to whether the other part of the job is to be done or how it is to be done, or who is to do it, the said plumber may take a permit, do the part for which he has contracted, but should the balance of the job be let to another plumber, a new permit must be taken, as each permit gives permission to a certain plumber, whose name is written therein, to do certain work, and two or more firms could not work under one permit.

Sec. 30. [Testing.] Methods of testing and when and how required, are explained in section 7. Outside work need not be tested, but must be inspected.

Sec. 31. [Soil pipe to be used.] The rules do not provide for the use of standard or medium soil pipe in any case, outside or in, and it cannot therefore be used, and any old standard or medium soil pipe or black wrought iron vent pipe that, in the course of any remodeling job, alteration or extension, is removed, cannot be replaced. This applies to one length or a whole job, as it would be inconsistent and impossible for the Board of Health to issue a certificate of approval of such material or work.

Sec. 32. [Soil pipe; size.] The main soil pipe or house drain of any building or any lateral or vertical branch thereof, may be of any size from 1¼-inch to 4-inch and up, and must in all cases be continued through the roof as required in section 9.

Sec. 33. [Soil pipes, etc.] When it is desired to connect a kitchen sink to the sewer or cesspool, and the person doing so contemplates putting in a bath room at some future time and for that reason wishes, while the pipe is being installed, to put in a size large enough to receive the waste of the bath room, it will not be required to, although this large pipe is really the main soil pipe, to run the large pipe through the roof until said person is ready to do so, and in such a case the sink would be fitted up the same as though the main soil pipe were run through, and as much of the job as is done must be tested, every main soil pipe and every 25-foot lateral and 10-foot vertical branch thereof and all vent pipes less than 2 inches inside, must be increased in size inside of the building near the point of exposure, to the outside air, whether that point is at the roof or side of the house. This does not apply to a line of soil pipe which passes through a cellar or under a house to reach a frost-proof closet or catch basin in the rear yard, although that part of the pipe that is in or under the house must be tested.

Sec. 34. [Trap screws.] Trap screws or trap screw ferrules should be placed at the end of every straight section of a horizontal line, of more than five feet in length, and such trap screws will be accessible; there is no necessity of putting them in inaccessible places, such as underground, under floors, etc., but when the pipe is not covered with more than a foot of earth in the cellar or hung on the wall or ceiling, trap screws are required as stated in the rules. Short quarter bends and sanitary tees should not be used except in connecting horizontal to vertical waste pipes in which the flow is toward the vertical and drops away from the horizontal. Heel outlet "L's" must not be used except in a position in which the two inch outlet stands or looks upward.

Sec. 35. [Connections.] In changing the direction of a horizontal line or in connecting the foot of a vertical to a horizontal line, or in connecting one horizontal line to another, "Y's" and ⅛ bends should be used, but when it is absolutely necessary to make a right angle and the situation or the conditions are such that "Y's" and ⅛ bends cannot be used, "L's" or a large radius, or two ⅛ bends caulked together, should be used.

Sec. 36. [Stacks and vents.] A stack will not serve as a vent for a closet that sets more than five feet therefrom, that is, if a closet branch runs more than five feet from a stack, a closet trap must be revented. Care should be taken that vent pipes are not confused with main house drains or ten-foot vertical or twenty-five-foot lateral branches thereof, which must be run through full size That part of the stack above or beyond the last fixture should rise from that part that acts as a waste. Vents should be taken out of waste pipes or a "Y," whether the waste pipe is vertical or horizontal, and when the work is so close that this cannot be done with iron fittings, lead should be used. Forty-five degree "L's" and "Y's" should be used in vent pipe wherever it is possible to do so.

Sec. 37. [Catch basins.] Two outside catch basins or

slop sinks may be connected to one trap, provided they are not more than three feet apart.

Sec. 38. [Window in water closet.] Plumbers are cautioned against contracting to set water closets in apartments in which there is no window leading directly to the outer air, or for which there is not provided proper local ventilation. A space partitioned off, but not roofed over, would not be considered a separate apartment.

Sec. 39. [Bar sinks.] In fitting bar sinks with waste and vent pipes, the traps must not be more than three feet from any sink which is connected thereto, the vents from such traps must rise vertically or as nearly so as possible to a point above the sink, or be goosenecked and drained full size to soil pipe. See sections 12 and 15. Waste pipes must in all cases be of cast iron, lead or brass, except the waste pipes of motors, beer pumps, circulating boilers, outside fountains, etc. In such exceptional cases the opening in the soil pipe must be properly trapped and ventilated, as required for other openings, and the pipe beyond the trap may be of any suitable material. Such wastes should, where possible, be connected to the pipe inside of the trap seal of some other fixture.

Sec. 40. [Plumbing inspectors.] The Board of Health shall appoint for the purposes of this regulation and the enforcement of the provisions thereof, two inspectors of plumbing, to be known as the chief inspector and assistant inspector, said inspectors of plumbing shall be practical plumbers, selected from among those persons who are well informed as to practical plumbing, skilled and well trained in matters pertaining to the sanitary regulations, concerning plumbing work, and shall not be interested directly or indirectly in the business of plumbing during the period of their appointment under penalty of dismissal. The salary of the chief inspector shall be fifteen hundred dollars ($1,500.00) per annum, payable monthly. The salary of the assistant inspector shall be twelve hundred dollars ($1,200.00) per annum, payable monthly.

Sec. 41. [Rules; when apply.] The foregoing rules and regulations shall apply only to plumbing work hereafter constructed, extended or remodeled.

Sec. 42. [Violation.] In case of the violation of the foregoing rules or any part thereof in the doing of any plumbing work, the approval of the plans and description thereof shall be nullified by the Board of Health, and notice thereof shall at once be given to the plumbers having charge of the work and doing same, and to the owner of the building or his agent, and thereupon all work under such plans and descriptions shall immediately cease, and work thereunder shall not recommence until such plans and descriptions have been reapproved by the inspector.

Sec. 43. [Penalty.] Whoever violates any provisions of this regulation of the Board of Health of the city of Dayton, shall be fined in any sum not exceeding one hundred dollars ($100.00), or be imprisoned for any time not exceeding ninety (90) days, or both; but no person shall be imprisoned under this section for the first offense, and the prosecution shall always be and for such first offense, unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 44. [Repeals.] All rules, regulations and municipal provisions relating to the construction, alteration and inspection of plumbing in the said city of Dayton in conflict or inconsistent with this regulation are hereby repealed.

Sec. 45. [Takes effect.] This regulation shall take effect and be in force from and after ten days from the date of its publication.

Minutes, vol. 3, p. 214.

DIVISION 23.

REGULATIONS RELATING TO MILK.

PERMIT REGULATION.

(Adopted December 3, 1903.)

REGULATIONS of the Board of Health, to regulate and provide for the sale of milk and cream within the city of Dayton, and to grant permits to venders thereof.

Permits.—No one shall engage in the sale of milk or cream in the city of Dayton, Ohio, ship the same into the city for sale or supply to others for use in the city, unless he shall first obtain a permit from the Board of Health so to do.

A fee of fifty cents will be charged for each permit, and the same shall be deposited with the city treasurer to the credit of the sanitary fund of the Board of Health. Permits shall be renewed every six months. On or before the first day of January and the first day of July of each year hereafter, permits will be issued by the Board of Health for the ensuing half year, to all applicants who comply with the provisions of these rules and regulations, regulating the sale of milk or cream in the city of Dayton; but before the issuance of any permit every vender or shipper of milk or cream shall make application therefor upon a printed form, provided by the board for the purpose, on which shall be stated:

1. The name, residence, post-office address and location of the business place or places of the applicant.

2. The number of cows from which milk is obtained for sale, and the kind of food which the cows are given.

3. If the applicant buys part or all his milk supply, the names and addresses of all persons from whom he obtains milk or cream.

4. If the applicant be a shipper of milk or cream into the city, he shall, in addition to the above, state the route of his shipments.

If any person engage in the sale of milk or cream after the said first day of January or July in any year, he shall forthwith make application for a permit for the remainder of the half year, complying with the above regulations.

The board will not issue any permit unless it is satisfied, after inspection, with the cleanly and sanitary condition of the stables, cow yards, cows, wagons, store or place of business of the applicant therefor, and with all the utensils used by him from which his milk or cream is obtained; and that the food given the cows is pure and wholesome, and that all persons engaged in the care and handling of the milk are free from any contagious diseases, and that said persons use due cleanliness in their work.

All applications for permits shall be signed by the applicant, and when received by the Board of Health, shall be placed on file and the name of such applicant shall be entered in a book of registration kept for such purpose. The filing of such application shall authorize such applicant to continue the prosecution of his business until the Board of Health takes official action thereon, and either issues a permit to such applicant for the sale of milk or cream or refuses to do so. The permit fee shall accompany the application.

As soon as possible after an application is received at the health office for a permit to sell milk, the milk and dairy inspector shall visit the dairy or place of business of such applicant and make such observation and gather such information as will enable the board to properly consider such application.

Should the applicant live at such distance from the city of Dayton as to make it impracticable for the milk and dairy inspector to visit such dairy premises, such applicant shall furnish evidence, satisfactory to the board, of the sanitary condition of his dairy before he will be given a permit to ship milk or cream to the city.

If, after issuing a permit to sell milk or cream, the Board of Health shall become satisfied that the provisions of this sub-division of the sanitary code are being violated, it will

at once revoke the permit issued to such person or persons, and no new permit will be issued until all unsanitary conditions have been rectified, and all other provisions of this sub-division of the sanitary code are complied with.

Quality of Milk.—Milk shall not be any lower than the following standard: Solids, 12½ per cent.; fats, 3½ per cent., excepting during the months of May and June, when milk containing less than 12 per cent. of milk solids or less than 3 per cent. of fats shall be deemed not of good quality.

The Stable and Surroundings.—The stables shall be so constructed that the cows have plenty of air, space and light. The urine and manure shall be twice daily removed from the stable. The bedding shall be kept sweet and clean; the food and water ample and well chosen. No dairyman shall feed his cows on swill, garbage or other like substances. If malt or beet pulp is used, it must not be fed when sour. The surroundings to the stable must be kept in a sanitary condition. Cows must not be allowed to stand in manure and filth.

The Milkers.—The milkers must thoroughly wash and wipe their hands and the cow's udders before they begin milking. They must not use pails, cans, strainers, etc., unless they have been thoroughly washed in hot water and soap, or hot water and soda, and afterwards sterilized with boiling water or steam. Care must be taken that the seams of the vessels are thoroughly cleaned with a brush. They must refrain from milking or handling milk in any way when in themselves or their families there is even a suspicion of any contagious or infectious disease, such as smallpox, scarlet fever, diphtheria, typhoid fever, tuberculosis, or the like.

Handling the Milk.—Immediately after milking, the milk shall be removed from the stable into a milk room screened from flies and other insects, aerated and cooled to at least sixty degrees temperature, and put into perfectly clean bottles or cans. Dairymen who use both bottles and cans

in delivering milk shall not fill bottles while on their delivery route.

Care of Cans or Bottles.—All cans or bottles used in the distribution of milk must be thoroughly cleaned either by hot water and soap or hot water and soda, or other alkalies, rinsed and sterilized by boiling water or steam before they are again used as receptacles for milk. Extreme care must be exercised in cleaning the faucets to cans used by use of a brush.

Contagious Diseases.—Should scarlet fever, smallpox, diphtheria, typhoid fever, tuberculosis or other dangerous or infectious diseases occur in the family of any dairyman or among any of his employes, or in any house in which milk is kept for sale, or in the family or among the employes of any person who ships milk into the city for sale, such dairyman, such venders or shippers of milk shall immediately notify the health officer of the facts of the case, and the health officer shall at once investigate and order the sale of such milk stopped, or sold under such regulations as he thinks proper.

Should dairymen, venders or shippers of milk fail to notify the health officer when contagious diseases exist in their families or in the families of their employes, or who, after such information is given the health officer, fail to obey his directions, the inspector shall seize and destroy all milk sent into the city by such persons, and he shall, when acting in good faith, be held harmless in damages therefor, in any suit or demands made.

In delivering milk to families in which there exists any of the above named contagious or infectious diseases, the dairyman shall not enter, neither shall he permit any of his milk bottles or vessels to be taken into such houses, but shall pour such milk as each family wishes into vessels furnished by such family.

It shall be the duty of the inspector to tag and quarantine in such manner as he may see fit, any cow or other animal

that is sick or suspected of being affected with any disease. The owner of such cow or other animal shall be responsible for such tagged cow or other animal, and the Board of Health, or its duly authorized agent, may, whenever it considers it advisable, order the tuberculin test on any cow or animal contained in a dairy, which test shall be made by some qualified veterinary surgeon at the expense of the owner of the cow or animal, and such veterinary surgeon shall submit a written statement to the Board of Health of his examination or test. Such examination or test for tuberculosis shall embrace:

1. Ascertaining the history and present physical condition of the individuals composing it, especially their temperature or body heat;
2. The injection of a specific agent called tuberculin beneath the skin;
3. The determination of the variations of temperature during a limited period before and after injection; and
4. Deductions from these variations, determining the presence or absence of tuberculosis.

Adulterations.—No person shall offer for sale any milk that is impure, adulterated or unwholesome.

Milk Delivery Wagons.—No one shall use any vehicle for the delivery of milk in the city of Dayton which has not painted thereon in legible Roman letters not less than three inches in height, and on both sides of the vehicle in a conspicuous place, the name and location of his dairy and the number of his permit, and if such vender sells skimmed milk, each and every container of skimmed milk shall have the words "Skimmed Milk" thereon in plain letters, not less than one inch in height.

Milk or Cream Excluded from Sale.—No milk or cream from such milk, shall be kept, sold or offered for sale, drawn from cows within fifteen days before and twelve days after calving, nor shall such milk or cream be mixed with any other milk or cream for such purpose. No milk shall be kept, sold or offered for sale, drawn from cows suffering

with sore and inflamed udders and teats, or from cows diseased.

Retailers.—All grocers, bakers or other persons having or offering for sale milk or cream, shall at all times keep the names and addresses of the dairymen from whom the milk on sale was obtained, posted up in a conspicuous place wherever such milk may be sold or offered for sale. If skimmed milk is kept or offered for sale, each and every container of such milk shall be plainly marked with the words "Skimmed Milk" in letters not less than one inch in height.

Milk Inspectors.—The milk or dairy inspector, the health officer, or any other person authorized by the Board of Health, may examine all dairy herds, utensils for handling milk, of all dairymen or other persons engaged in selling or shipping for sale milk or cream to the city of Dayton. These inspectors shall have power to open any can, vessel or package containing milk or cream, whether sealed (locked) or otherwise, or whether in transit or otherwise, and take samples of the milk or cream for testing or analysis; and if, upon inspection, the milk or cream is found to be filthy, or the cans or other containers are in an unclean condition, the said inspector may then and there condemn the milk or cream as deemed by him to be filthy, and pour the contents of such bottles, vessels or packages upon the ground forthwith, and he shall, if done in good faith, be held harmless in damages therefor, in any suit or demand made.

Penalty for Violation.—Whoever violates any provision of this sub-division of the sanitary code of the city of Dayton shall be fined in any sum not exceeding $100.00, or imprisoned for any time not exceeding ninety days, or both; but no person shall be imprisoned under this section for the first offense, and the prosecution shall always be and for such first offense, unless the affidavit upon which the prosecution is instituted, contains the allegation that the

offense is a second or repeated offense. [Sec. O. L., v. 95, p. 424.]

Minutes, v. 3, p. 328.

See supplemental regulation on page 178, also see supplemental regulation on page 181.

A petition was filed against the Board of Health, praying for a writ of mandamus to compel the issuance of a permit to plaintiff as provided for in the above regulation. The case was dismissed at the conclusion of plaintiff's testimony and the writ denied. State ex rel., Shroyer v. Board of Health, Common Pleas Court, Montgomery County, Ohio.

BOTTLING REGULATION.

(Passed November 10, 1908.)

Section 1. [Milk, how sold.] No person, firm or corporation, except such as may sell for consumption on the premises where sold, and dealers in dairy products exclusively, shall sell, offer for sale, expose for sale or keep with the intention of selling any milk or cream or both, in the city of Dayton, Ohio, unless such milk or cream is kept, offered for sale, exposed for sale, or sold in tightly closed and capped bottles or receptacles of a similar character, which may be approved by the Board of Health of said city; and owners and operators of dairies, and all drivers of wagons who sell milk or cream at retail or deliver the same from wagons, shall carry, sell and deliver such milk and cream only in bottles or other approved receptacles as aforesaid. All milk and cream so sold in bottles or other receptacles, not to be consumed on the premises where sold, shall be taken and carried to the residence of the purchaser or place where intended for use in said bottles or receptacles, and not otherwise.

Sec. 2. [Equipment required for sale.] No milk or cream shall be sold, offered for sale, exposed for sale or kept with the intention of selling in or at any milk depot, creamery, store or other place of business, unless such milk depot, creamery, store or other place of business shall be equipped for keeping said milk and cream, and the same shall be kept

therein at a temperature of fifty degrees or lower Fahrenheit.

Sec. 3. **[Wholesalers and bona fide dealers exceptions.]** The provisions of section 1 of this regulation shall not apply to bona fide dealers in milk and cream at wholesale who shall sell at any one time a quantity of not less than two gallons of milk or two quarts of cream, and who shall each have a separate room in which said milk and cream shall be kept or offered for sale, with a floor space at least ten feet square, with suitable ventilation, and provided also with an additional room in which shall be washed and cleaned all cans, bottles or other receptacles and utensils of every kind used in connection with said business, all of which shall be subject to the approval of the Board of Health.

Sec. 4. This regulation shall take effect and be in force on and after December 15, 1908, and shall thereupon supersede and repeal the regulation adopted on July 14, 1908, relating to the same subject matter.

Minutes, v. 3, p. 242.

A proprietor of a local dairy business brought suit on behalf of himself and others to enjoin the above regulation. It was alleged that he had built up a large business, that he sold milk at wholesale and retail, and that the regulation was unconstitutional, unreasonable, burdensome, and discriminating.

The answer of the Board of Health set up the unsanitary handling of the milk by the plaintiff.

Plaintiff was allowed a temporary injunction, which was dissolved on a final hearing on the merits in the Common Pleas Court. On appeal the Circuit Court allowed a temporary injunction until its next term of court.

Snediker, J.

The police power, which includes control over everything essential to public health, has been left to the individual States, and the Municipal Code has vested, by R. S. 1536-70, its authority in a municipality and in a board.

The above regulation is not inconsistent with the laws of Ohio, but is in accordance with R. S. 1536-756, relative to adulterated food and "unwholesome milk."

The dairy business and its relation to the public health is such as to require regulation, and the fact that it might be burdensome is not sufficient to invalidate the regulation.

It is uniform in its operation. Citing State v. Gardner, 58 O. S., 610.

Klopfer v. Board of Health. Common Pleas Court of Montgomery County. 9 N. P. N. S., 33.

A resolution of a board of health providing that "all milk, the temperature of which shall be found on examination or test to be above fifty degrees Fahrenheit, shall be confiscated, forfeited, and immediately destroyed by or under the direction of a health officer or milk inspector," is not unconstitutional.

There are some things which are public nuisances by nature, such as unwholesome food. An ordinance providing for the immediate destruction of such a nuisance by an official is not in contravention of that constitutional guaranty which provides that no man's property may be taken without due process of law. When the thing itself is not a nuisance, as a house or animal, for instance, but the way in which it is used is a nuisance, then the thing cannot be destroyed; its illegal use must be punished. Kaiser v. Walsh, 4 N. P. N. S., 507.

SUPPLEMENTAL MILK REGULATION.

(Adopted July 27, 1909.)

To supplement certain "Regulations of the Board of Health to regulate and provide for the sale of Milk and Cream within the city of Dayton, and to grant permits to venders thereof."

Be it resolved by the Board of Health of the city of Dayton, State of Ohio:

Section 1. [Additional Requirements.] That certain "Regulations of the Board of Health to regulate and provide for the sale of milk and cream within the city of Dayton, and to grant permits to venders thereof," adopted December 3, 1903, be and the same are hereby supplemented as follows, to-wit:

That the owner, or agent or person in charge of any cow or cows, from which either milk or cream or both is sold within the city of Dayton, shall be required to observe and carry out the following orders and regulations, to-wit:

1. The building within which are kept or stabled any cow or cows from which any milk or cream is so sold shall have at least four hundred (400) cubic feet of air space for each such cow.

2. That such building shall have sufficient air inlets and outlets so arranged as to give good ventilation.

3. That such building shall have a minimum window space of four square feet for each such cow.

4. That the ceiling of such building shall be tight.

5. That the ceiling and walls of such building shall be whitewashed at least once in each year in the fall season thereof, and further that such ceiling and walls shall be swept frequently enough to keep them free from cobwebs and dirt.

6. That the floors and gutters of such building shall be water tight and so arranged as to drain to the outside of such building and such drainage shall be so disposed of as not to create a cesspool.

7. That said cows shall be kept clean.

8. That the manure from the cows in such building shall be removed to a distance of at least forty feet therefrom, and either deposited in a box kept for that purpose or dumped outside of the yard containing such building.

9. The yard enclosing such building shall be kept clean and as dry as possible by adequate drainage.

10. The house where such milk is cooled shall be located at least twelve (12) feet from such building in which said cows are stabled and milked.

Sec. 2. [Penalty.] That the foregoing is hereby declared to be an order and regulation of the Board of Health of the city of Dayton, State of Ohio, made pursuant to the provisions of the laws of the State of Ohio, and whoever violates the same, or obstructs or interferes with the execution of the foregoing order and regulation, or wilfully or illegally omits to obey such order and regulation, shall be fined any sum not exceeding one hundred ($100.00) dollars or imprisoned for any time not exceeding ninety days, or both; but no person shall be imprisoned hereunder for the first offense, and the prosecution shall always be as and for a first offense, unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense, all of which is in accordance with section 2119 of the Revised Statutes of Ohio, in such cases made and provided.

Sec. 3. That this order and regulation shall take effect and be in force from and after the earliest period allowed by law.

Minutes, v. 3, p. 331.

SUPPLEMENTAL MILK REGULATION.

(Adopted August 26, 1909.)

To supplement certain "Regulations of the Board of Health to regulate and provide for the sale of Milk and Cream within the city of Dayton, and to grant permits to venders thereof," and to repeal certain regulations herein named.

Be it resolved by the Board of Health of the city of Dayton, State of Ohio:

That certain "Regulations of the Board of Health to regulate and provide for the sale of milk and cream within the city of Dayton, and to grant permits to venders thereof," adopted December 3, 1903, be and the same are hereby supplemented as follows, to-wit:

Section 1. [Temperature.] No person, by himself, or by his servant, agent or employe, or as the servant, agent or employe of any person, partnership or corporation, shall sell, exchange or deliver or have in his custody or possession with intent to sell or exchange, or expose or offer for sale or exchange, for human food, within the city of Dayton, any milk or cream, the temperature of which is above sixty (60) degrees Fahrenheit.

Sec. 2. [Penalty.] All milk or cream sold or exchanged or delivered, or in custody or possession of any person having the intent or purpose to sell or exchange the same, or exposed or offered for sale by any person, for human food, within the city of Dayton, the temperature of which shall be found on examination or test to be above sixty (60) degrees Fahrenheit, shall be confiscated, forfeited, and immediately destroyed, or carmine may be placed therein, by or under

the direction of the health officer or milk inspectors of the city of Dayton.

Sec. 3. [**Bacteria.**] No person, by himself or by his servant, agent or employe, or as the servant, agent or employe of any person, partnership or corporation, shall sell, exchange or deliver or have in his custody or possession with intent to sell, or exchange, or expose or offer for sale or exchange, for human food, within the city of Dayton, any milk or cream which contains more than five hundred thousand (500,000) bacteria to the cubic centimeter.

Sec. 4. [**Repeals.**]

Sec. 5. [**Penalty.**] That the foregoing is hereby declared to be an order and regulation of the Board of Health of the city of Dayton, State of Ohio, made pursuant to the provisions of the laws of the State of Ohio, and whoever violates the same, or obstructs or interferes with the execution of the foregoing order and regulation, or wilfully or illegally omits to obey such order and regulation, shall be fined any sum not exceeding one hundred ($100.00) dollars or be imprisoned for any time not exceeding ninety days, or both; but no person shall be imprisoned hereunder for the first offense, and the prosecution shall always be as and for the first offense, unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense, all of which is in accordance with section 2119 (1536-731) of the Revised Statutes of Ohio, in such cases made and provided.

Sec. 6. That this order and regulation shall take effect and be in force from and after the earliest period allowed by law.

Minutes, v. 3, p. 357.

In the case of Routzohn v. The Dayton Board of Health, upon an application for a temporary restraining order, which was refused by Judge West, it was held that the above regulation was a valid, constitutional enactment. The court relied upon the Klopfer case, decided by Judge Snediker (see page 178), and upon Kaiser v. Walsh, 4 N. P.

N. S. 507; affirmed by the Supreme Court without report in 7 O. L. R. 80.

The president *pro tem* of the Board of Health has authority to call a meeting of the board, as well as the Mayor, who is president *ex-officio* of the board. Routzohn v. Board of Health, *supra*.

EDITORS' NOTE.—At the date of publication, this case is pending a hearing in the Circuit Court.

DIVISION 24.

REGULATIONS RELATING TO ICE CREAM.

[Adopted May 11, 1909.]

Be it resolved by the Board of Health of the city of Dayton, State of Ohio:

Section 1. [Shall conform to standards.] Whoever, by himself or by his servant, agent or employe, or as the servant, agent or employe of another person, partnership or corporation, within the city of Dayton, State of Ohio, manufactures for sale, sells or offers to sell, or has in his custody or possession with intent to sell or exchange, any ice cream, nut ice cream, fruit ice cream or French ice cream shall conform strictly to the standards, requirements and provisions prescribed in the following sections:

Sec. 2. [Constituents of ice cream.] That ice cream shall be made from wholesome milk products, sugar, with or without natural flavor and with or without not to exceed in the aggregate seven-tenths (7/10) of one (1) per cent. of starch, gelatine, gum arabic, tragacanth, and shall contain not less than the per cent. of milk fat as hereinafter designated.

Sec. 3. [Fruit ice cream.] That fruit ice cream shall be made from materials used in making ice cream as designated in section two (2) of this article, together with sound, clean, mature fruits.

Sec. 4. [Nut ice cream.] That nut ice cream shall be made from materials used in making ice cream as designated in section two (2) of this article, together with sound, non-rancid nuts.

Sec. 5. [French ice cream.] That French ice cream shall be made from materials used in making ice cream, as designated in section two (2) of this article, together with fresh eggs.

Sec. 6. [Percentage of milk fat.] That ice cream, nut ice cream, fruit ice cream and French ice cream shall contain at least ten (10) per cent. of milk fat, unless the per cent. of milk fat is stated as provided in section seven (7) of this article; but no substance containing less than eight (8) per cent. of milk fat shall be designated as or called ice cream, nut ice cream, fruit ice cream or French ice cream.

Sec. 7. [Placard to show sub-standard.] No person, by himself or by his servant, agent or employe, or as the servant, agent or employe of another person, partnership or corporation, shall sell or offer for sale, or have in his custody or possession with intent to sell or exchange, within said city of Dayton, any ice cream, nut ice cream, fruit ice cream or French ice cream containing less than ten (10) per cent. of milk fat, unless the words "This ice cream contains less than ten per cent. of milk fat" are conspicuously stamped, stenciled, labeled or marked in plain letters not less in size than three-eighths of an inch square, so that the words cannot be easily defaced, upon two sides of each and every bucket, box, can, or wrapper or other package containing such ice cream, nut ice cream, fruit ice cream, or French ice cream.

When any ice cream, nut ice cream, fruit ice cream or French ice cream, containing less than ten (10) per cent. of milk fat is sold at retail, a white placard not less in size than ten by fourteen inches shall be so displayed that the same may be easily seen and read by the purchaser at the time of the purchase, on which placard shall be printed in black letters not less in size than one and one-half inches square the words, "Ice cream sold here contains less than ten per cent. of milk fat," and said placard shall not contain any other words than the ones described.

Sec. 8. [Sale on streets.] No person, by himself or by his servant, agent or employe, or as the servant, agent or employe of another person, partnership or corporation, shall sell or offer for sale on any of the highways or public

grounds within the said city of Dayton, any ice cream, nut ice cream, fruit ice cream or French ice cream, except in quantities of at least one pint and contained in sealed or locked cans or other containers approved by the Board of Health of the said city of Dayton.

Sec. 9. [Penalty.] The foregoing is declared to be an order and regulation of the Board of Health made pursuant to the provisions of the laws of the State of Ohio, and whoever violates or obstructs or interferes with the execution of the foregoing order or wilfully or illegally omits to obey such order shall be fined any sum not exceeding $100, or imprisoned for any time not exceeding 90 days, or both; but no person shall be imprisoned for any violation or failure to obey the foregoing order and regulation for the first offense, and the prosecution shall always be as and for the first offense, unless the affidavit on which the prosecution is instituted contains the allegation that the offense is a second or repeated offense, all of which is in accordance with section 2119 of the Revised Statutes of the State of Ohio, in such cases made and provided.

Sec. 10. This order and regulation shall take effect and be in force from and after the earliest period allowed by law.

Minutes, v. 3, p. 295.

DIVISION 25.

REGULATIONS RELATING TO HOTELS.

[Adopted May 25, 1909.]

Be it resolved by the Board of Health of the city of Dayton, State of Ohio:

Section 1. [Sanitary conditions defined.] That sanitary conditions in hotels, restaurants, boarding houses and lunch stands, and kitchens and dining rooms connected thereto or operated therewith, in the city of Dayton, State of Ohio, for enforcement by the Board of Health of said city, are declared to exist only: When the floors are clean and free from litter and accumulated dirt; when the side walls and ceiling are free from cobwebs and accumulated dirt; when the counters, tables, shelves and sinks, drains, bins and cabinets are clean; when refrigerators, ice boxes and cold storage rooms are free from vile or offensive odors, mold and slime; when the doors and windows are properly screened; when dining rooms and kitchens are well lighted and ventilated. Dishes, table ware and kitchen utensils must be washed and rinsed in clean water after using. Foods individually served or dished to customers or foods personally handled or partially consumed by such customers and then returned to the kitchen or serving room must not again be served. All garbage must be removed daily. Back rooms, back yards, and cellars must be kept clean and free from rubbish and ashes. Cellars, unless properly arranged, well lighted and ventilated and free from moisture, must not be used for the storage of prepared foods unless such foods are in glass or other containers approved by the Board of Health. Spittoons must not be used in any dining room or other place where food is served. Water closets must not be located in or immediately in connection with rooms used for preparing or serving food.

Sec. 2. [Condition of apparatus.] Gas ranges, cook stoves and all devices and utensils employed in cooking or preparing food must be clean. Refrigerators and ice boxes must be drained according to the requirements of the city plumbing code and kept clean and free from offensive odors.

Sec. 3. [Canned goods; ventilation.] All canned or preserved goods must be removed from the original package when opened. Store rooms, pantries, kitchens or other places where food is prepared or stored must be well ventilated and free from dampness, roaches, ants, bugs, or other insects, rats or mice.

Sec. 4. [Servants to be free from communicable diseases.] Persons affected with cancers, venereal or other communicable diseases, shall not be employed in any restaurant, hotel, boarding house, or other place where food is served.

Sec. 5. [Permit for sale of food upon street.] No person shall sell or keep for sale any prepared food, cooked or uncooked, or any drinks intended for immediate consumption from any street, alley or public place or from any sidewalk or open door or window, unless such persons secure a permit from the Board of Health to conduct the business of selling such food or drinks by registering his name and business address with the health office and conforming strictly to the conditions named in such permit, all of which permits shall be uniform in character and in compliance with strict rules of sanitation.

Sec. 6. [Penalty.] The foregoing is declared to be an order and regulation of the Board of Health made pursuant to the provisions of the laws of the State of Ohio, and whoever violates or obstructs or interferes with the execution of the foregoing order or wilfully or illegally omits to obey such order shall be fined any sum not exceeding $100, or imprisoned for any time not exceeding 90 days, or both; but no person shall be imprisoned for any violation or failure to obey the foregoing order and regulation for the

first offense, and the prosecution shall always be as and for the first offense, unless the affidavit on which the prosecution is instituted contains the allegation that the offense is a second or repeated offense, all of which is in accordance with section 2119 of the Revised Statutes of the State of Ohio, in such cases made and provided.

Sec. 7. This rule and regulation shall take effect and be in force from and after the earliest period allowed by law.

Minutes 3, p. 301.

DIVISION 26.

REGULATIONS RELATING TO MEAT.

To regulate and provide for the sale of meat within the city of Dayton, and to grant permits to venders thereof.

[Adopted July 13, 1909.]

Be it resolved by the Board of Health of the city of Dayton, State of Ohio:

Section 1. [To whom applies.] Whoever, by himself or by his servant, agent or employe, or as the servant, agent or employe of another person, partnership or corporation, within the city of Dayton, State of Ohio, sells or offers to sell, or has in his custody or possession with intent to sell any meat to be used for human food, shall conform strictly to the orders and regulations prescribed in the following sections.

Sec. 2. [What animals not to be killed.] No animal shall be killed or offered for human food in the said city of Dayton, when such animal at the time of said killing is affected with any one or more of the following named diseases, to-wit:

Anomalies of the blood, anemia, (leukemia, hæmoglobinæmia, icterus, uræmia). Poisoning from any mineral drug or vegetable; parturient paresis (milk fever), animal parasitism (the parasite known to be directly or indirectly transmissible to man), putrid intoxication (sapræmia), pyemia, septicæmia, malignant odema, anthrax, foot and mouth disease, cowpox or sheeppox (when animals show fever), rabies, glanders, tuberculosis, actinomycosis, contagious pleura-pneumonia, hemorrhagic septicæmia, blackleg, diphtheritis, dysentery, hog cholera, swine plague, chicken cholera, mycotic gastro-enteritis, Texas fever, tetanus, malignant epizootic, head catarrh, malignant tumors, puerperal fever, emaciation, advance pregnancy,

recent parturition (at least 15 days must have elapsed), overheated or feverish animals; exhausted or fatigued animals (should have eight hours rest before slaughter); fractures, bruises or contusions (when fever is present); advance stage of mange; advance stages of foot rot; suppurative or gangrenous inflammation of the udder (when fever is present); wounds (when fever is present) or any disease of the heart, lungs, liver, kidney, spleen, peritoneum, pleura, or any organic disease which would render the meat unfit for human food, or animals wounded or killed by accident.

Sec. 3. [Uninjured part of carcass may be sold.] When an organ or part of the carcass is bruised or injured the part injured must not be offered for sale; the rest of the carcass, if fit for food, will be allowed to go on the market.

Sec. 4. [Meat to be protected from dust.] The body of the animal or part thereof which is to be used for food shall not be carted or carried through the streets or avenues unless it be so covered as to protect it from dust or dirt. Meat on the markets shall be protected from flies, dust or dirt by a clean, white mosquito bar, clean white linen, or be encased in a glass cover, all of which must be so arranged as to protect said meat absolutely from the dust, dirt and flies.

Sec. 5. [Boar meat.] The meat of boars and rams shall not be held or offered for sale.

Sec. 6. [Meat to be cooled and organs removed.] No meat above the size of a rabbit shall be taken to any public or private market to be sold for human food until the same shall have been fully cooled after killing, nor until the organs of the abdominal and thoracic cavity, head and feet (except of poultry and game, and except the head and feet of swine) shall have been removed.

Sec. 7. [Meat shall not contain preservatives, except.] No meat or meat food product shall contain any substance which lessens its wholesomeness, nor any drug, chemical, dye, or preservative, except as hereinafter provided.

Sec. 8. [What can be added.] There may be added to meat or meat food products common salt, sugar, wood smoke, vinegar, pure spices and saltpeter, and none other except by permission of the Board of Health. Only such coloring matters as may be designated by the Board of Health of said city as being harmless may be used and these only in such manner as the Board of Health may designate.

Substances necessary for the preparation, clarification, or the refining of meat food products, will be permitted to be used subject to the approval of the Board of Health, provided they are eliminated from the meat food products during the further process of manufacture.

Sec. 9. [Slaughter house to be kept clean.] Every butcher or other person occupying or using any room or building where any cattle are slaughtered or dressed for market or stores shall cause such rooms or building and all appurtenances to be thoroughly cleansed, and all offal, blood, fat, garbage, refuse, and unwholesome or offensive matter to be removed therefrom once in 24 hours after the use thereof for any purpose herein mentioned and the room or building mentioned must be well drained into a sewer or other place acceptable to the Board of Health.

Sec. 10. [Fish mongers.] All meat dealers, butchers or fish mongers must keep their stores, salesrooms, market stalls, slaughter houses and all appurtenances thereof in a clean and sanitary condition, and provide proper drainage and ventilation for the same.

Sec. 11. [Refrigerator.] No meat dealer or butcher shall keep meats in any refrigerator or ice box unless the same shall be free of offensive odor, water tight, and be kept in a sanitary condition, nor unless the same be provided with drainage as prescribed in the Plumbing Code of this city.

Sec. 12. [Placed in stalls and removed when.] All meat brought into market must be placed within the stall or stalls of the owner of such meat, and all meat must be removed from the market at the close of each market unless the meat is placed in cold storage.

Sec. 13. [Lard.] Lard when offered for sale containing any substance other than the fat of swine, must be labeled as such and not as pure lard.

Sec. 14. [Animals not to be tied down.] No one shall carry while bound or tied by its legs or bound down in any manner in any vehicle in the city of Dayton, any cattle, sheep, hogs or calves; such animals shall be allowed freely to stand in any vehicle when transported and while being therein.

Sec. 15. [Meaning of "offering for sale."] The fact of any cattle, sheep, hog or lamb being in stock yard or slaughter house pen shall be considered sufficient evidence that the same is being exposed there for sale; and the fact that the carcass of any cattle, hogs, sheep or lamb or any part thereof is found in any public or private market place dressed and prepared as such meats usually are for market, it shall be deemed as sufficient evidence that the same is on sale and no meat, animal or part thereof that has been examined and condemned by the meat inspector or his assistant shall be held, sold or offered for sale as human food in any market place in this city.

Sec. 16. [Unwholesome meat to be destroyed.] Upon any meat being found by any inspector of the Health Department in the condition which renders said meat unsound, unwholesome and unfit for use as human food he is empowered, authorized and directed to immediately condemn the same and cause said meat to be removed to the garbage plant for destruction and to report his action to the health officer or Board of Health.

Sec. 17. [Permit to be obtained.] No person shall vend meat in the city of Dayton, Ohio, unless he shall have first obtained a permit from the Board of Health so to do. Such permit shall date from July 1 to January 1, of each year and shall be issued for the term of six (6) months from the date thereof, for which a charge of fifty cents shall be made after inspection, whether the same has the full term of six months or a portion thereof to run.

Sec. 18. [How application to be made.] All applications for permits shall be in writing, signed by the applicant, and shall state: (A) The applicant's name, post-office address and the place of business. (B) If the applicant buys part or all of his meat from others, the names and addresses of all such persons. (C) If applicant butchers his own meat, the location of the slaughter house, the days and the time of day the larger amount of killing is done. Upon the filing of such application, properly filled out, the applicant will be permitted and authorized to continue the sale of meat until the Board of Health takes official action on his application. All applications shall be filed with the clerk of the Board of Health.

Sec. 19. [Permit may be refused, when.] The Board of Health may refuse to grant such permit, and may revoke the same when granted, if the applicant or person to whom the permit is issued does not comply with the lawful rules and regulations now in force or that may hereafter be adopted by the Board of Health for the sale of meat.

Sec. 20. [Immature meat.] No butcher or other person shall bring into the said city of Dayton, Ohio, or sell or offer for sale in the said city for human food, carcasses of animals or any part thereof too immature to produce wholesome meat, and all unborn and stillborn animals, all carcasses of calves, pigs, kids and lambs under three (3) weeks of age shall be condemned.

Sec. 21. [Condemned animals; how to slaughter.] All animals at the stock yards or in possession of any butcher, intended for slaughter for the city markets or stores, when condemned according to the provisions of this code by the meat inspector or veterinarian, must not be slaughtered except in the presence of the inspector or veterinarian, due notice being sent by the butcher to the health office for that purpose. All carcasses or parts of carcasses that are condemned by the meat inspector or veterinarian shall be rendered unfit for food by treatment with kerosene oil.

Sec. 22. **[Shipped meat to be inspected.]** All meat shipped into the city of Dayton for sale or offered for sale shall be subject to inspection by the meat inspector or veterinarian.

Sec. 23. **[Meat condemned by State inspector.]** Any meat condemned in the city by government or state inspectors shall be destroyed under the supervision and subject to the directions of the Board of Health or its meat inspector or veterinarian.

Sec. 24. **[Unsound meat not to be brought into the city.]** No meat not being sound, fresh or wholesome shall be brought into the city or offered or held for sale as food anywhere in the city, nor shall any such meat be kept or stored therein.

Sec. 25. **[Penalty.]** The foregoing is declared to be an order and regulation of the said Board of Health made pursuant to the provisions of the laws of the State of Ohio, and whoever violates, or obstructs, or interferes with the execution of the foregoing order or wilfully or illegally omits to obey such order, shall be fined any sum not exceeding one hundred dollars ($100.00) or imprisoned for any time not exceeding 90 days, or both; but no person shall be imprisoned for any violation or failure to obey the foregoing order and regulation for the first offense, and the prosecution shall always be as and for a first offense, unless the affidavit on which the prosecution is instituted contains the allegation that the offense is a second or repeated offense, all of which is in accordance with section 2119 of the Revised Statutes of the State of Ohio, in such cases made and provided.

Sec. 26. This rule and regulation shall take effect and be in force from and after the earliest period allowed by law.

Minutes, v. 3, p. 325.

DIVISION 27.

REGULATIONS RELATING TO MARKETS.

[Adopted July 27, 1909.]

An order and regulation of the Board of Health governing articles of food for human consumption sold or exposed for sale in, at, or upon any place within the city of Dayton, Ohio, and to repeal a regulation therein named.

Be it resolved by the Board of Health of the city of Dayton, State of Ohio:

Section 1. [Food to be enclosed in glass case.] That all persons engaged in the business of selling articles of food for human consumption, in, at, or upon any place within the City of Dayton, Ohio, except vegetables and fruit in whole or native state, shall keep such articles of food for human consumption enclosed in a glass case or covered with clean white mosquito bar or clean white linen.

The use of newspapers, or other printed or soiled papers for wrapping of articles of food for human consumption is hereby prohibited, and instead clean manilla wrapping paper, or other suitable paper or material such as may be approved by the Board of Health, shall be used for such purpose.

Provided further, that no article of food for human consumption shall be, by the owner, agent, servant or employe of the owner, deposited or allowed to remain in and upon any sidewalk, street, alley or other public place in the city of Dayton, Ohio, unless the same shall be contained in a box or other receptacle, so as to be protected from dogs and other animals and their excretions; provided, however, that nothing contained in this paragraph shall apply to articles of food for human consumption kept or deposited at an elevation of not less than two feet from the surface of any sidewalk, street, alley or public place.

Sec. 2. [Penalty.] The foregoing is declared to be an order and regulation of the Board of Health made pursuant to the provisions of the laws of the State of Ohio, and whoever violates any provision of the foregoing order and regulation, shall be fined in any sum not exceeding one hundred ($100.00) dollars, or imprisoned for any time not exceeding ninety (90) days, or both; but no person shall be imprisoned for the first offense, and the prosecution shall always be as and for the first offense, unless the affidavit on which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 3. The regulation entitled "A regulation of the Board of Health respecting meats and provisions sold on the streets of the city of Dayton, Ohio," adopted June 25, 1908, is hereby repealed.

Sec. 4. This order and regulation shall take effect and be in force from and after ten days from the date of the first publication.

Minutes, v. 3, p. 333.

CERTIFICATE.

We, the undersigned, J. Morton Howell, president of the Board of Health of the City of Dayton, State of Ohio, and Winton L. Miller, clerk of said Board of Health, do hereby certify that the Regulations of said Board of Health as arranged and published in Part III., Divisions 22 to 27 (inclusive) hereof, are true and correct copies of said Regulations.

J. MORTON HOWELL,
President.
WINTON L. MILLER,
Clerk.

APPENDIX

BY-LAWS OF THE BOARD OF HEALTH.

Section 1. [Meetings.] The regular meetings of the Board of Health shall be held on the second and last Tuesdays of each month at 8:00 p.m., at the general offices of the Board of Health.

Special meetings may be called at any time by the president, president pro tem, or on the written application of any three members of said board. All members of the board having a vote shall be notified of the regular and special meetings.

Sec. 2. [Order of Business.]

1. Roll-call.
2. Reading of minutes of previous meeting.
3. Reports of the employes of the department, as may be desired by the board.
4. Miscellaneous business.
5. Approval of bills and accounts.
6. Adjournment.

Sec. 3. [Election of employes.] All employes of this board shall be elected and serve at the discretion of the board, or until their successors are elected and qualified.

Sec. 4. [Appointments by board.] All appointments or elections of this board to office shall be made by ballot, certificates thereof shall be signed by the president pro tem. and countersigned by the clerk. Dismissals from office shall be made and signed in the same manner.

Sec. 5. [Quorum.] Three members of the board shall constitute a quorum for the transaction of any business, provided all members have been notified of the meeting at which said business is to be transacted.

Sec. 6. [Expenditures authorized by board.] No expenditures shall be incurred by the board unless authorized by the board at a regular or special meeting.

Sec. 8. [Salaries.] The board shall fix all the salaries of its employes or appointees.

Sec. 9. [Proposed regulations to be read three times.] All proposed laws or regulations for the government of the Board of Health or of the municipality over which said board has jurisdiction shall be read at three separate meetings, before they can be put upon their final passage, excepting upon a suspension of the rules by three-fourths vote of all the members of the board, they may be passed at the time of the first or second reading.

Sec. 10. [Certification.] All rules or regulations passed for the government of the board or said municipality must be correctly certified by the clerk of the Board of Health and signed by the president pro tem.

Sec. 11. Alteration of rules.] These rules shall not be altered except by a majority vote of all members of the Board of Health.

Sec. 12. [Two-thirds vote; when.] No rule or regulation shall be suspended, changed or amended, except by a vote of two-thirds of all the members.

Sec. 13. [Roberts' Rules of Order.] Roberts' Rules of Order for deliberative assembly shall govern the Board of Health in all its deliberations.

RULES FOR THE GOVERNMENT OF SANITARY POLICEMEN.

Section 1. [Application; how made.] Applications for appointment of sanitary policemen must be made in the handwriting of the applicant. The applicant must set forth under oath that he is not less than twenty-five years of age, nor more than forty-eight, that he is a citizen of the United States, and that he has resided in the city of Dayton for at least five years last past; that he is of sound health, and application must be accompanied by the health officer's certificate, that the applicant is mentally and physically qualified to perform the duties of policeman.

Sec. 2. [Sanitary officer to devote his whole time.] Each member of the sanitary force shall devote his whole time

and attention to the business of the department, and he is expressly prohibited from following any other calling or being employed in any other business during the term of his appointment as sanitary policeman.

Sec. 3. [Hours.] Punctual attendance, prompt obedience to orders, and strict conformity to the rules and regulations of the department will be rigidly required, and the hours of duty shall be from 7:30 a.m. to 11:30 a.m., and from 1:00 p.m. to 5:00 p.m., daily except Saturday, which shall be from 7:30 a.m. to 11:30 a.m., unless otherwise ordered by the Board of Health, the president pro tem., or the health officer.

Sec. 4. [To make reports to health officer.] The sanitary police shall present themselves to the health officer at such times as he may direct for orders and to make reports. Nor are they to consider their duties as limited to the district to which they have been assigned; but they are bound to leave their own district and examine into complaints and sickness elsewhere whenever the health officer or board may deem it advisable thus to employ them. They may be changed about from district to district on the order of the health officer.

Sec. 5. [Conduct of sanitary police.] Each member of the sanitary police in his conduct and deportment must be quiet, civil and orderly; in the performance of duty he must maintain a respectful, attentive manner, exercising control of his temper, discretion and patience. He must at all times refrain from coarse, violent, profane and insolent language, but at the same time act with promptness, firmness and energy.

Sec. 6. [Penalty for intoxication.] Any member of the sanitary force who shall be guilty of intoxication at any time shall be subject to suspension, deduction of pay, or dismissal from the force, and no member while on duty shall use any kind of intoxicating beverage.

Sec. 7. [Shall enforce orders.] When orders by the health officer or Board of Health shall be made to remedy

any complaint, the sanitary policeman shall see that said order is faithfully complied with, and the nuisance abated within the time stated in said orders. In all cases of non-compliance with orders he shall promptly report the same to the health officer and await further instructions.

Sec. 8. [Shall not enter house of prostitution except upon duty.] No member of the sanitary police shall at any time enter any house of prostitution, assignation, gambling house or room, or sporting house of any description, or any saloon, unless in the strict discharge of his duties. It is imperative that sanitary policemen, while on duty shall not lounge around saloons or places of public resort. Neither will they be permitted to enter any place of public resort while on duty except in the immediate discharge of the same.

Sec. 9. [Shall not impart information.] No member of the sanitary police shall communicate to any person any information which will enable persons to evade the laws of the state, the ordinances of the city, or the requirements of the Board of Health.

Sec. 10. [How to apply for warrant for arrest.] No sanitary policeman will be permitted to apply for a warrant in the police court without the order of the health officer or member of the Board, to be given only after personal inspection by said health officer or member of the board.

Sec. 11. [Uniform.] The sanitary police shall wear uniform as follows: Sack Coat—color, indigo blue, four gilt buttons, police pattern, with letters S. P. on the breast, and two small gilt buttons on each cuff. Vest of the same material, single-breasted, standing collar, six gilt buttons placed at equal distances. Pants same goods and color as coat. Overcoat shall be a double-breasted sack of same color and with same trimmings as other coat. Hat such style and quality as may be directed by the board. Badge of Office on left breast, plainly exposed to view on the outer garment, and at no time shall they attempt to enter any house, building, or other premises of any citizen without

their badges thus exposed, unless directed otherwise by the health officer. They shall appear at all times when on duty in full uniform with all the insignia of office.

Sec. 12. [Vault cleaner not to be recommended.] No officer or member of the health department will be permitted under any circumstances to recommend a vault cleaner to citizens, but when asked for information, refer the parties to the list of vault cleaners at the office of the clerk.

Sec. 13. [President pro tem. to act in absence of health officer.] At any time during the temporary absence of the health officer from the city, or during his temporary disability, the president pro tem. of the Board of Health shall assume that officer's duties, and any orders issued by him shall be obeyed and respected by the sanitary force, the same as if given by the health officer in person.

Sec. 14. [Property to be returned in case of dismissal.] In case of the resignation, dismissal, or death of any member of the sanitary police the badges, books, and any other property of the Board shall be returned to the health officer.

Sec. 15. [Suspension.] For neglect of duty or violation of any of the rules and regulations of the Board of Health, ordinances of the city, or laws of the State, the health officer may suspend from duty any subordinate, which suspension shall be reported to the board at its next regular or called meeting.

Sec. 16. [Reasons for suspension.] Any member of the sanitary police shall be subject to reprimand, suspension, deduction of pay, or dismissal, according to the nature and aggravation of his offense, for any of the following causes:

1. For intoxication, while on or off duty.
2. Wilful disobedience of orders.
3. Indecent, profane, or harsh language.
4. Disrespect to a superior.
5. Leaving his district without leave.
6. Absence without leave.

7. Immorality, indecency, or lewdness.
8. Incompetency, lack of energy and incapacity—mental or physical.
9. Violation of section 8, or any other section, defining his duties.
10. Neglect of duty.
11. Conduct unbecoming an officer or a gentleman.
12. Violating any criminal law or penal ordinance.

MEAT AND FOOD INSPECTOR.

Section 1. [Meat inspectors.] All meat and food inspectors shall be under the control of the Board of Health and shall make their inspections in accordance with the instructions of the board and directions of the health officer.

Sec. 2. [Meat inspectors shall meet with board.] They shall meet with the board at all regular meetings and shall make a full and detailed report of all inspections and condemnations made during the preceding month.

VAULTS.

Section 1. [Permit to construct vault.] No privy vault shall be constructed without a permit from the Board of Health, nor shall any privy vault be constructed at a less distance than two feet from any boundary line, and ten feet from an open well.

Sec. 2. [Depth of vault.] All privy vaults shall be not less than six feet deep for private houses, and eight feet for all public buildings.

Sec. 3. [Surface water shall not run into vault.] No roof or surface water, nor kitchen slops shall be allowed to flow or run into any privy vault, nor shall any garbage, meats, or rubbish of any kind be deposited in any privy vault.

Sec. 4. [Construction.] No privy vault or water closet shall be constructed having any pipe connected with the

interior of a house unless so arranged as to prevent the admission of the gas or odors of said vault into said house by suitable automatic traps or other device which will effectually prevent the entrance of any gas into the house.

CLEANING.

Cleaning of Vault. No privy vault or cess pool shall be cleaned within the city limits without a permit be obtained by the scavenger of same from the Board of Health. The health officer is hereby authorized to issue special permits for cleaning vaults in the daytime, but no such permit shall be issued until proper appliances, patent barrels, disinfectants, and all utensils to be used by any person in cleaning vaults shall be first inspected by the health officer, and such permit shall state the fact of such inspection and be approved by him.

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